

Contemporary Fatawa

With Mufti Ebrahim Desai

DARUL IFTAA
DUREAN, SOUTH AFRICA



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Foreword

The Constitution of Islam is the Qur'an and Ahadith. In every time and era, the ever-compassing as well as comprehensive spirit of the Qur'an and Ahadith has been exemplified through the deep understanding of the Fuqaha (jurists) by addressing unique and contemporary issues in the light of the Qur'an and Ahadith. Their juridical skills have led them to unearth the hidden treasures of the Qur'an and Ahadith.

The practice of analysing contemporary issues and deducing the rulings of Shari'ah has been the hallmark of the illustrious Fuqaha. The annals of Islamic history boast the likes of Imam Abu Hanifah, Imam Sarakhsi, Allamah Kaasaani, Allamah Ibn al-Humaam (rahimahumullah- May Allah have mercy upon them-Ameen) and many other lofty personalities. These noble personalities were the garrisons of the Islamic Empire.

From advances in the medical field to the financial world, the Fuqaha left no stone unturned in resolving the contemporary issues of their time. As the wheel of time spins us into the 21st Century, the present day Ulama attempt to walk in the shadows of their illustrious predecessors by analysing contemporary issues and deducing the rulings of Shari'ah.

The Darul Iftaa conducts an educational programme known as B.E.E.P (Business Educational Empowerment Programme) which is sent out almost daily to thousands of

people through our business data. This compilation in your hand is another humble effort to address contemporary issues and is a collection of the fatawa sent out through the B.E.E.P programme.

Once in Makkah Mukarramah I was advised by my honourable teacher Hadhrat Mufti Ahmed Khanpuri Sahib (daamat barakatuhum- May his barakah be extended – Ameen) to compile the business related fatawa in a book. This advice by a great personality in a sacred place encouraged me to compile this book.

Most of the Fataawa were answered by the students of the Darul Iftaa as their training exercise in becoming Muftis. The following are the students of the Darul Iftaa for the year 2012:

Mufti Hussein Issa – *Maputo, Mozambique*

Mufti Zaid Mohammed Shelia – *Chicago, United States*

Maulana Faisal bin Abdul Hameed – *Montréal, Canada*

Maulana Ali bin Cassim – *Los Angeles, United States*

Maulana Abdul Hannan Nizami – *Chicago, United States*

Maulana Abdul Azeem bin Abdur Rahman – *New Orleans, United States*

Maulana Saeed Ahmed Golaub – *Westmoreland, Jamaica*

Maulana Ismail bin Ebrahim Desai – *Durban, South Africa*

Maulana Mahmood Patel – *Azqaadville, South Africa*

Maulana Saanwal ibn Muhammad – *Leicester, United Kingdom*

Maulana Faraz ibn Adam – *Leicester, United Kingdom*

We retained the academic references in the footnotes for the benefit of the Ulama and the students of fiqh. For purposes of brevity we have omitted other references which are requirements for the Iftaa training exercise.

We make dua that Allah Ta'ala accept this humble effort and makes it a means of our salvation in the Hereafter.
Ameen.

Mufti Ebrahim Desai
19th March 2012

Foreword

بسم الله الرحمن الرحيم

The Constitution of Islam is the Quran and the ahādīth. In every time and era, the ever-compassing as well as comprehensive spirit of the Quran and ahādīth has been exemplified by the deep understanding of the fuqahā (jurists) who addressed unique and contemporary issues in the light of the Quran and ahādīth. Their juridical skills led them to unearth the hidden treasures of the Quran and ahādīth.

The practice of analyzing contemporary issues and deducing the relevant rulings of Shariah has been the hallmark of the illustrious fuqahā. From advances in the medical field to the financial world, the fuqahā left no stone unturned in resolving the contemporary issues of their time. As the wheel of time spins us into the 21st century, the present day ulamā attempt to walk in the shadows of their illustrious predecessors by analyzing contemporary issues and deducing the rulings of Shariah.

I was advised by my honourable teacher, Hadhrat Muftī Ahmed Khan-puri Sāhib (dāmat barakātuhum - may his blessings remain. Ameen), in Makkah al-Mukarramah to compile the fatāwā issued by the Darul Iftaa into a book. This advice by such a great personality in such a sacred place encouraged me to compile this book. This is the second volume of Contemporary Fatāwā. Most of the fatāwā were answered by the students of the Darul Iftaa as part of their training in becoming muftīs.

The following are the students of the Darul Iftaa for the year 2013/2014/2015 :

1. Muftī Hanif Patel - UK
2. Muftī Fahad Abdul Wahab - USA
3. Muftī Ismail Dawoodjee - Zambia
4. Muftī Bilal Rehmani - Canada
5. Muftī Zameelur Rahman - UK
6. Muftī Ismaeel Bassa - South Africa
7. Muftī Hashim Amod - South Africa
8. Muftī Hisham Dawood - USA
9. Muftī Abdul Mannan - USA
10. Muftī Asim Patel - South Africa
11. Muftī Sohail ibn Arif - USA
12. Muftī Nabeel Valli - Zambia
13. Muftī Arshad Ali - Trinidad
14. Muftī Saleem Khan - UK
15. Muftī Muntasir Zaman - USA
16. Muftī Muhammad Haris Siddiqui - Australia
17. Muftī Zakariya Memon - Canada
18. Muftī Khalil Johnson - Belgium\Canada
19. Muftī Abu Ali al – Dagestani - Russia
20. Mufti Immad Arshad - USA
21. Mawlānā Abdullah Ghadai (First Year Iftaa Student) -USA
22. Mawlānā Zaakir (First Year Iftaa Student) - USA

We have retained the academic references in the footnotes for the benefit of the ulamā and students of fiqh. For purposes of brevity we have omitted other references which are a requirement for the students training in iftā. We make duā that Allah Ta'ala accepts this humble effort and makes it a means of our salvation in the Hereafter. Ameen.

(Muftī) Ebrahim Desai

Amīr, Darul Iftaa Mahmudiyyah

Rajab, 1436 | May, 2015

Shari`ah Compliant Businessman Data

Business Educational Empowerment Programme

Rasulullah *salallahu `alayhi wasallam* said,

طَلَبُ الْحَلَالِ فَرِيضَةٌ بَعْدَ الْفَرِيضَةِ - المعجم الكبير للطبراني ٧٤ / ١٠

Seeking halāl (sustenance) is an obligation beyond other obligations.

The obligation to earn halāl and deal according to Shari`ah can be achieved only by educating oneself on the *Shari`ah Laws of Business and Commerce related issues*.

Alhamdulillah, The Darul Iftaa receives a variety of queries daily. Many of these queries pertain to Business and Commerce, Estates and Trusts etc.

We encourage you to study these issues and empower yourself to do your business according to Shari`ah.

Hadhrat `Umar *radiallahu `anh* would not permit a person to do business if he did not know the general laws of business. The Darul Iftaa also runs a regular email listing for the `Ulamā fraternity. `Ulama may take advantage of this facility by signing up through their emails. You may send us your request at admin@daruliftaa.net or keep an eye on our website at www.daruliftaa.net / www.mahmudiyyah.com .

Admin Department

on behalf of:

Mufti Ebrahim Desai

Shari`ah perspective on funds and sports facilities from the LOTTO Company?

Q: We have been approached by ASA (Athletics South Africa) and WP Rugby with regards to the Shari`ah perspective on obtaining funds and sports facilities from the LOTTO Company. The LOTTO Company will require to display the LOTTO Logo on the facilities provided by them. Kindly view the attached letter from WP Rugby, and inform us accordingly? (*Note: Question has been restructured*)

MJC

EMAIL: fatwa@mjc.org.za

ATTENTION: Mr YusufKeraan

Sir,

LOTTO FUNDING

The WP Rugby Football Union seeks your advice on the matter of Lotto funding and the use thereof by predominantly Muslim clubs.

The Union applies for Lotto funding and redistributes the funding in the form of equipment, kit, facilities improvement and capacity building programmes.

With regards to facilities please note that these are normally on Council grounds and therefore not the property of the club. The club hires the ground from the Council. Kit and equipment are normally branded with the Lotto logo.

It is important to note that no person gains financially from this venture as all the funding is ploughed into spheres as mentioned earlier.

The predominantly Muslim clubs also caters for non-Muslim players.

The clubs can also apply for funding by themselves. It is here where guidance is also required as the clubs are reluctant to do so because they are perhaps not sure if it is allowed.

Funding for sport, which plays a major role in the upliftment of our communities, has been given a life line via the Lotto as many of the traditional funding streams have dried up.

Your esteemed guidance will be highly appreciated.

Herman d. Abrahams

Deputy chief executive officer

MJC

fatwa@mjc.org.za

A:

According to our understanding from the query of W.P. Rugby,

W.P. Rugby Football Union applies for funding from the LOTTO Company. The Union obtains the funding and distributes the funding in kind, equipment, kit and facilities to clubs which are predominantly Muslims.

The kit and equipment has the LOTTO logo on it.

We assume W.P. Rugby Football Union are non-Muslims and they independently obtain the funds for the clubs.

If so, then the Muslim Club may use the funding for sports on condition no laws of *Shari'ah* are violated in the sports equipment and its activities.

However, it is obvious that the LOTTO Company will seek recognition for its funding, hence the LOTTO logo on the kit and equipment.

This angle of the issue will be governed from the juristic principle of *Ta'awan 'alal Ism* (Assisting in sin)

Allah Ta'ala says,

وَلَا تَعَاوُنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ...

And do not assist in sin and oppression...

(Al Qur'an 5:2)

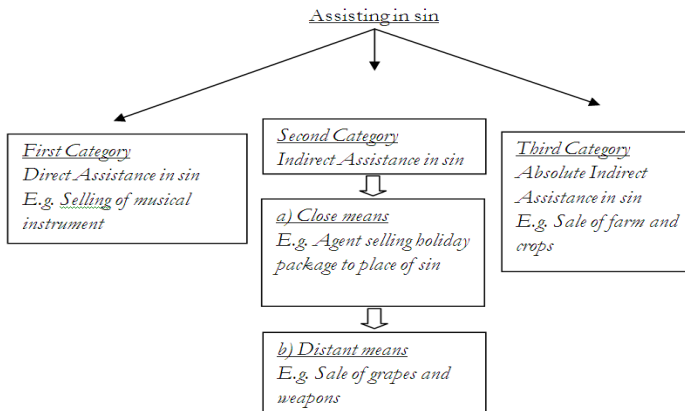
The Fuqahā' have categorized “تَعَاوُنُوا عَلَى الْإِثْمِ” in three categories.

- a) Direct assistance in sin.
For example selling a musical instrument.
- b) Indirect assistance in sin.

This is further categorized in two:

- Close means (سبب قريب)
For example a travel agent arranging a travel to a place of sin.
- Distant means (سبب بعيد)
For example selling grapes. The purchaser could use the grapes to make an intoxicant.

- c) Absolute indirect assistance in sin.
For example a farmer sells vegetables. The purchaser eats those vegetables and gets energy and commits sin.
Hereunder is a table for a simple understanding:



“Direct assistance in sin” and “Close means of indirect assistance in sin” fall in the category of “تَعَاوُنٌ عَلَى الْإِثْمِ” and are prohibited.

The sin of “distant means of indirect assistance” and “absolute indirect assistance” will be on the مباشر (the person committing the sin) and not on the person who becomes the means for the sin.

LOTTO is all about gambling. To carry the LOTTO Logo will fall in atleast the second category of “تَعَاوُنُوا عَلَى الْإِثْمِ” –Close means of indirect assistance in sin.

The person wearing the kit and issuing the equipment is not involved in gambling. However, by carrying the LOTTO Logo, he is promoting the LOTTO Company.

If the kit and equipment do not have the LOTTO Logo, then there will be a leeway with *Karahiyyah* (dislike) to use the funding with the provision there are no violations of *Shari'ah* in the activities of the sport or its equipment.

We understand from the policy of “*Athletics South Africa*” that they respect religious obligations. That policy could be invoked to avoid displaying the LOTTO Logo.¹

¹ (وَكُرْهُ يَبِيعُ السِّلَاحَ مِنْ أَهْلِ الْفِتْنَةِ) لِأَنَّهُ إِعَانَةٌ عَلَى الْمَعْصِيَةِ قَالَ اللَّهُ تَعَالَى (وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَى وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ) {المائدة: ٢} [تبيين الحقائق شرح كنز الدقائق وحاشية الشلبي ٢٩٦/٣]

(قَوْلُهُ وَلَا أَنْ يَسْتَعِي ذِمَّتِي) قَالَ فِي الْأَصْلِ أَفْتَكْرَهُ لِلْمُسْلِمِ أَنْ يَسْتَعِي الذِّمَّةَ حَمْرًا أَوْ مُشْكِرًا؟ قَالَ نَعَمْ؛ لِأَنَّ

هَذَا تَصَرَّفَ مِنَ الْمُسْلِمِ فِي الْخَمْرِ لَا عَلَى سَبِيلِ التَّطْهِيرِ فَلَا يَحِلُّ؛ لِأَنَّهُ إِعَانَةٌ عَلَى الْمَعْصِيَةِ قَالَ تَعَالَى {وَلَا تَعَاوُنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ} [المائدة: ٢] وَقَالَ فِي الْأَصْلِ أَيْضًا أَفْتَكُرُهُ أَنْ يَنْسُقِيَ الدَّوَابَّ الْخَمْرَ قَالَ نَعَمْ؛ لِأَنَّهُ انْتِفَاعٌ بِالْخَمْرِ، وَهُوَ حَرَامٌ وَقَالَ الْقُتَيْبِيُّ أَبُو جَعْفَرٍ: إِنَّمَا يَكْرَهُ إِذَا حَمَلَ الْخَمْرُ إِلَى الدَّوَابِّ فَإِذَا حَمَلَ الدَّوَابَّ إِلَى الْخَمْرِ فَلَا بَأْسَ بِهِ فَيَأْسَأُ عَلَى الْمَيْتَةِ تُحْمَلُ إِلَى الْكَلَابِ يَكْرَهُ [تبيين الحقائق شرح كنز الدقائق وحاشية الشلبي ٤٩ / ٦]

(قال: ويكره بيع السلاح من أهل الفتنه وفي عساكرهم) ش: أي عساكر أهل الفتنه م: (لأنه إعانة على المعصية) ش: قال الله تعالى: {وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَى وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ} [المائدة: ٢] (المائدة: الآية ٢) م: (وليس يبيعه) ش: أي بيع السلاح م: (بالكوفة من أهل الكوفة ومن لم يعرفه من أهل الفتنه بأس) ش: بالرفع اسم ليس م: (لأن الغلبة في الأمصار لأهل السلاح) ش: وأهل الفتنه فيها قليل، وتقبيده بالكوفة باعتبار أن البغاة خرجوا منها أولاً فالحكم في غيرها كذلك. م: (وإنما يكره بيع نفس السلاح لا يبيع ما لا يقاتل به إلا بصنعة) ش: متجددة، فإنه لا بأس من أهل الفتنه. وأوضح ذلك بقوله م: (ألا ترى أنه يكره بيع المعازف) ش: جمع معزف بكسر الميم وهو ضرب من الطناير تتخذ به أهل اليمن م: (ولا يكره بيع الخشب) ش: أي الذي يتخذ منه المعزف م: (وعلى هذا) ش: أي الحكم م: (الحمر مع العنب) ش: حيث لا يجوز بيع الحمر ويجوز بيع عصير العنب. والفرق لأبي حنيفة بين كراهية بيع السلاح من أهل الفتنه وعدم كراهية بيع العصير ممن يتخذة خمرًا أن الضرر هنا يرجع إلى العامة وهناك يرجع إلى الخاصة. فروع: يكره أن يبعث برؤوس البغاة أو الحربي إلى الأماكن إلا إذا كان في ذلك وهن لهم فلا بأس به. [البنية شرح الهداية ٣١٠ / ٧]

قَالَ: - رَحِمَهُ اللَّهُ - (وَإِجَارَةُ نَيْتٍ لِيَتَّخِذَ نَارٍ أَوْ بَيْعَةً أَوْ كَيْسَةً أَوْ يُبَاعَ فِيهِ خَمْرٌ بِالسَّوَادِ) يَعْنِي جَارَ إِجَارَةِ النَيْتِ لِكَاْفِرٍ لِيَتَّخِذَ مَعْبَدًا أَوْ نَيْتَ نَارٍ لِلْمَجُوسِ أَوْ يُبَاعَ فِيهِ خَمْرٌ فِي السَّوَادِ وَهَذَا قَوْلُ الْإِمَامِ وَقَالَ: يَكْرَهُ كُلُّ ذَلِكَ لِقَوْلِهِ تَعَالَى {وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَى وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ} [المائدة: ٢] وَلَهُ أَنَّ الْإِجَارَةَ عَلَى مَنْفَعَةِ النَيْتِ وَلِهَذَا تَحِبُّ الْأُجْرَةُ بِمَجَرَّدِ التَّسْلِيمِ وَلَا مَعْصِيَةٍ فِيهِ وَإِنَّمَا الْمَعْصِيَةُ بِفِعْلِ الْمُسْتَأْجِرِ وَهُوَ مُحْتَاطٌ فِيهِ فَقَطَّعَ نِسْبَةَ ذَلِكَ إِلَى الْمُؤَجِّرِ وَصَارَ كَمِيعِ الْجَارِيَةِ لِمَنْ لَا يَسْتَبْرِئُهَا أَوْ يَأْتِيَهَا فِي ذُبْرِهَا أَوْ يَبِيعُ الْعُلَامَ مِمَّنْ يُلَوِّطُ بِهِ وَالذَّلِيلُ عَلَيْهِ أَنَّهُ لَوْ أُجِّرَهُ لِلْسُّكْنَى جَارٌ وَلَا بَدَّ فِيهِ مِنْ عِبَادَتِهِ وَإِنَّمَا قَبِيْهَةٌ بِالسَّوَادِ؛ لِأَنَّهُمْ لَا يُمْكِنُونَ مِنْ ذَلِكَ فِي الْأَمْصَارِ وَلَا يُمْكِنُونَ مِنْ إِظْهَارِ بَيْعِ الْخَمْرِ وَالْخَزِيرِ فِي الْأَمْصَارِ لِيُظْهَرَ شَعَائِرُ الْإِسْلَامِ فَلَا يَعْزُزُ بِظُهُورِ شَعَائِرِ الْكُفْرِ قَالُوا فِي هَذَا سَوَادُ الْكُوفَةِ؛ لِأَنَّ غَالِبَ أَهْلِهَا أَهْلُ دِمَّةٍ، وَأَمَّا فِي غَيْرِهَا فَيَبَا شَعَائِرُ الْإِسْلَامِ ظَاهِرَةٌ فَلَا يُمْكِنُونَ فِيهَا فِي الْأَصَحِّ وَفِي التَّشَارُحَاتِ

مُسْلِمٌ لَهُ امْرَأَةٌ مِنْ أَهْلِ الذِّمَّةِ لَيْسَ لَهُ أَنْ يَمْتَعَهَا مِنْ شُرْبِ الْخَمْرِ وَلَهُ أَنْ يَمْتَعَهَا مِنْ إِدْخَالِ الْخَمْرِ بَيْتَهُ وَلَا يُجْبِرُهَا عَلَى الْغُسْلِ مِنَ الْجَنَابَةِ وَفِي كِتَابِ الْخَرَجِ لِأَبِي يُوسُفَ الْمُسْلِمِ بِأَمْرِ جَارِيَتِهِ الْكِتَابِيَّةِ بِالْغُسْلِ مِنَ الْجَنَابَةِ وَجُبْرِهَا عَلَى ذَلِكَ قَالُوا: يَجِبُ أَنْ تَكُونَ الْمَرْأَةُ الْكِتَابِيَّةُ عَلَى هَذَا الْقِيَاسِ أَيْضًا قَالَ الْقُدُورِيُّ فِي التَّصْرِيحِ تَحْتَ الْمُسْلِمِ [البحر الرائق شرح كنز الدقائق ومنحة الخالق وتكملة الطوري ٨/ ٢٣٠]

وَفِي الْفَتَاوَى الْعَثَايَةِ وَلَا بَأْسَ بِبَيْعِ الْعَصِيرِ وَمَنْ يَتَّخِذُهَا حَمْرًا وَلَا يَبْنِعُ الْأَرْضَ وَمَنْ يَتَّخِذُهَا كَيْسَةً كَذَا فِي التَّنَازُلِ الْهِنْدِيَّةِ. [الفتاوى الهندية ٣/ ١١٦]

...أَبَا يُوسُفَ أَجَارَهَا مَعَ اخْتِلَافِ الْمِلَّةِ مَعَ الْكَرَاهَةِ، وَعَلَّلَهُ الرَّبْلَعِيُّ هُنَاكَ بِأَنَّ الْكَافِرَ لَا يَهْتَدِي إِلَى الْحَائِزِ مِنَ الْعُقُودِ (قَوْلُهُ لَا يَجُوزُ لِأَحَدٍ اخْذُهُ الْخ) ظَاهِرُهُ أَنَّهُ لَا يَجُوزُ الْإِفْدَامُ عَلَى الْأَخْذِ مَا لَمْ يَسْمَعْ الْمَالِكُ قَالَ لِيَأْخُذْهُ مَنْ أَرَادَهُ وَظَاهِرُهُ أَنَّهُ يَمْلِكُهُ بِالْأَخْذِ إِذَا قَالَ الْمَالِكُ ذَلِكَ وَالْأَلَا، وَتَقَدَّمَ تَمَامُ الْكَلَامِ عَلَى هَذِهِ الْمَسْأَلَةِ فِي بَابِ الْجَنَابَةِ عَلَى الْإِحْرَامِ مِنْ كِتَابِ الْحَجِّ [الدر المختار وحاشية ابن عابدين (رد المحتار) ٥/ ٢٣٦]

...مَطْلَبٌ فِي كَرَاهَةِ بَيْعِ مَا تَقُومُ الْمُعْصِيَةُ بَعَيْنِهِ (قَوْلُهُ: تَحْرِيمًا) بَحْثٌ لِصَاحِبِ الْبَيْحِ حَيْثُ قَالَ: وَظَاهِرُ كَلَامِهِمْ أَنَّ الْكَرَاهَةَ تَحْرِيمٌ لِتَغْلِيلِهِمْ بِالْإِعَاةَةِ عَلَى الْمُعْصِيَةِ ط (قَوْلُهُ: مَنْ أَهْلُ الْفِتْنَةِ) شَمِلَ الْبَغَاةَ وَفُطَّاعَ الطَّرِيقِ وَاللُّصُوصَ نَحْوَ (قَوْلُهُ: إِنْ عَلِمَ) أَيُّ إِنْ عَلِمَ الْبَائِعُ أَنَّ الْمُشْتَرِي مِنْهُمْ (قَوْلُهُ: لِأَنَّهُ إِعَاةَةٌ عَلَى الْمُعْصِيَةِ)؛ لِأَنَّهُ يُقَاتِلُ بَعَيْنِهِ، بِخِلَافِ مَا لَا يُقَاتِلُ بِهِ إِلَّا بِصُنْعَةٍ تَحْدُثُ فِيهِ كَالْحَدِيدِ، وَتَظَاهِرُ كَرَاهَةُ بَيْعِ الْمَعَارِفِ؛ لِأَنَّ الْمُعْصِيَةَ تُقَامُ بِهَا عَيْنُهَا، وَلَا يَكْرَهُ بَيْعَ الْحَشَبِ الْمُتَحَدِّةِ هِيَ مِنْهُ، وَعَلَى هَذَا يَبْعُ الْخَمْرُ لَا يَصِحُّ وَيَصِحُّ بَيْعُ الْعَنْبِ. وَالْفَرْقُ فِي ذَلِكَ كُلِّهِ مَا ذَكَرْنَا فَتَنَحَّ وَمِثْلُهُ فِي الْبَيْحِ عَنِ الْبَدَائِعِ، وَكَذَا فِي الرَّبْلَعِيِّ لَكَيْتَهُ قَالَ بَعْدَهُ وَكَذَا لَا يَكْرَهُ بَيْعُ الْجَارِيَةِ الْمُعْتَبَةِ وَالْكَنْشِ النَّطُوحِ وَالذِّبِّ الْمَقَاتِلِ وَالْحَمَامَةِ الطَّيَّارَةِ؛ لِأَنَّهُ لَيْسَ عَيْنُهَا مُنْكَرًا وَإِنَّمَا الْمُنْكَرُ فِي اسْتِعْمَالِهَا الْمُحْظُورِ. اهـ. قُلْتُ: لَكِنَّ هَذِهِ الْأَشْيَاءَ تُقَامُ الْمُعْصِيَةُ بِعَيْنِهَا لَكِنْ لَيْسَتْ هِيَ الْمُقْصُودُ الْأَصْلِيُّ مِنْهَا، فَإِنَّ عَيْنَ الْجَارِيَةِ لِلْخِدْمَةِ مِثْلًا وَالْعَتَاءَ عَارِضٌ فَلَمْ تَكُنْ عَيْنَ التَّنْكِرِ، بِخِلَافِ السِّلَاحِ فَإِنَّ الْمُقْصُودَ الْأَصْلِيَّ مِنْهُ هُوَ الْمُحَارَبَةُ بِهِ فَكَانَ عَيْنُهُ مُنْكَرًا إِذَا بَاعَ لِأَهْلِ الْفِتْنَةِ، فَصَارَ الْمُرَادُ بِمَا تُقَامُ الْمُعْصِيَةُ بِهِ مَا كَانَ عَيْنُهُ مُنْكَرًا بِمَا عَمِلَ صُنْعُهُ فِيهِ، فَخَرَجَ نَحْوُ الْجَارِيَةِ الْمُعْتَبَةِ؛ لِأَنَّهُمَا لَيْسَتْ عَيْنَ الْمُنْكَرِ، وَنَحْوُ الْحَدِيدِ وَالْعَصِيرِ؛ لِأَنَّهُ وَإِنْ كَانَ يُعْمَلُ مِنْهُ عَيْنَ الْمُنْكَرِ لَكَيْتَهُ بِصُنْعَةٍ تَحْدُثُ فَلَمْ يَكُنْ عَيْنُهُ، وَهَذَا ظَهَرَ أَنَّ بَيْعَ الْأَمْرَدِ وَمَنْ يُلَوِّطُ بِهِ مِثْلُ الْجَارِيَةِ الْمُعْتَبَةِ فَلَيْسَ بِمَا تَقُومُ الْمُعْصِيَةُ بَعَيْنِهِ، خِلَافًا لِمَا ذَكَرَهُ الْمُصَنِّفُ وَالشَّارِحُ فِي بَابِ الْحُطِّ وَالْإِبَاحَةِ، وَيَأْتِي تَمَامُهُ قَرِيبًا (قَوْلُهُ: يَكْرَهُ لِأَهْلِ الْحَرْبِ)

Why is suicide Haram when Allah hates you?

Q: Why is suicide Haraam when Allaah hates you? Wouldn't it be better to die instead of cause a pain to people around me by living? Can a suicide person be granted Shifa'ah of the Messenger of Allaah, sallallaahu 'alayhi wa sallam?

A: I am sorry that you are feeling despondent and fed up with life but how do you know that Allah hates you? Why don't you believe that Allah loves you?

He has made you Muslim and blessed you to be in the

مُتَقَضًى مَا تَقْلَنَاهُ عَنِ الْفُتْحِ عَدَمِ الْكَرَاهَةِ، إِلَّا أَنْ يُقَالَ: الْمُنْفِيُّ كَرَاهَهُ التَّحْرِيمِ وَالْمُنْتَبُ كَرَاهَهُ التَّنْزِيهِ؛ لِأَنَّ الْحَدِيدَ وَإِنْ لَمْ تَقُمْ الْمَعْصِيَةُ بِعَيْنِهِ لَكِنْ إِذَا كَانَ يَبْغُهُ وَمَنْ يَعْمَلُهُ سِلَاحًا كَانَ فِيهِ نَوْعٌ إِعَانَةٌ تَأْمَلُ (قَوْلُهُ: نَهْرٌ) عِبَارَتُهُ: وَعَرِفَ بِهَذَا أَنَّهُ لَا يَكْرَهُ بَيْعَ مَا لَمْ تَقُمْ الْمَعْصِيَةُ بِهِ كَبَيْعِ الْجَارِيَةِ الْمَعْنِيَةِ وَالْكَبْشِ النَّطُوحِ وَالْحَمَامَةِ الطَّيَّارَةِ وَالْعَصِيرِ وَالْخَسْبِ الَّذِي يَتَّخِذُ مِنْهُ الْعَارِفُ، وَمَا فِي بَيْعِ الْخَائِيَةِ مِنْ أَنَّهُ يَكْرَهُ بَيْعَ الْأَمْرَدِ مِنْ فَاسِقٍ يَعْلَمُ أَنَّهُ يَبْغِي بِهِ مُشْكِلٌ. وَالَّذِي جَزَمَ بِهِ فِي الْحُظَرِ وَالْإِبَاحَةِ أَنَّهُ لَا يَكْرَهُ بَيْعَ جَارِيَةٍ وَمَنْ يَأْتِيهَا فِي دُبُرِهَا أَوْ بَيْعَ الْغُلَامِ مِنْ لُوطِيٍّ وَهُوَ الْمُؤَقَّقُ لِمَا مَرَّ. وَعِنْدِي أَنَّ مَا فِي الْخَائِيَةِ مَحْمُولٌ عَلَى كَرَاهَةِ التَّنْزِيهِ وَالْمُنْفِيُّ هُوَ كَرَاهَةُ التَّحْرِيمِ، وَعَلَى هَذَا فَيَكْرَهُ فِي الْكُلِّ تَنْزِيهَا، وَهُوَ الَّذِي إِلَيْهِ تَطَلُّمُ النَّفْسِ؛ لِأَنَّهُ تَسَبَّبَ فِي الْإِعَانَةِ، وَلَمْ أَرِ مَنْ تَعَرَّضَ لِهَذَا، وَاللَّهُ تَعَالَى الْمُؤَقَّقُ اهـ (قَوْلُهُ: يَنْقُذُ) بِالتَّشْدِيدِ مَبْنِيًّا لِلْمَجْهُولِ (قَوْلُهُ: لَوْ عَادِلًا) أَيُّ لَوْ كَانَ حُكْمُ قَاضِيهِمْ عَادِلًا: أَيُّ عَلَى مَذْهَبِ أَهْلِ الْعَدْلِ. قَالَ فِي الْفَتْحِ: وَإِذَا وَلَّى الْبُغَاةَ قَاضِيًّا عَلَى مَكَانٍ غَابُوا عَلَيْهِ فَقَضَى مَا شَاءَ ثُمَّ ظَهَرَ أَهْلُ الْعَدْلِ فَرَفَعَتْ أَقْضِيَّتُهُ إِلَى قَاضِي الْعَدْلِ نَقَذَ مِنْهَا مَا هُوَ عَدْلٌ وَكَذَا مَا قَضَى بِرَأْيِ بَعْضِ الْمُخْتَبِدِينَ؛ لِأَنَّ قَضَاءَ الْقَاضِي فِي الْمُخْتَبِدَاتِ نَافِذٌ وَإِنْ كَانَ مُخَالِفًا لِرَأْيِ قَاضِي الْعَدْلِ.

[الدر المختار وحاشية ابن عابدين (رد المحتار) ٤ / ٢٦٨]

فَأَمَّا حُمْلُ الطَّعَامِ فِي الْيَوْمِ الثَّالِثِ لَا يُسْتَحَبُّ؛ لِأَنَّ فِي الْيَوْمِ الثَّالِثِ تَجْتَمِعُ النَّاحَاتُ فَاطْلَامُهُ فِي ذَلِكَ الْيَوْمِ يَكُونُ إِعَانَةٌ عَلَى الْمَعْصِيَةِ، كَذَا فِي فَتَاوَى قَاضِي خَانٍ. [الفتاوى الهندية ٦ / ٩٥]

Ummah of His Most-Beloved Prophet (salallahu alayhi wa sallam). He has given you the inclination to seek an Islamic ruling on your predicament rather than act on your feelings.

If Allah hated you, why would He give you a brain to think? Why would he give you eyes to see? Why would He give you ears to hear? Why would He create millions of blood vessels and cells in your body to nourish you? There is no limit to His bounties. Do you have an answer for your claims of hate? Why would Allah give brains to someone who would use the brains against Him? How tolerant is Allah!

The bounties and favors of Allah are innumerable. Often we don't even realize the value of such blessings until they are taken away from us. Allah says:

“And if you were to count Allah's favors, you would not be able to number them; most surely Allah is Forgiving, Merciful.”

(Surah al-Nahl: 18)

Many blessings of Allah are visible and many are invisible. Allah has even appointed angels for our protection. They guard us from so many incidents and are only removed when something is decreed to befall us. Were there to be no security cordon of these angels around us, we would be in serious trouble. These blessings serve to remind us the Allah loves us and how Compassionate He is towards His creation.

Pain and grief are part of this world and we always ask Allah for well-being but life is not perfect nor is it paradise. On the same token, you cannot end your life on the

presumption that Allah hates you since there is no proof or basis for this allegation.

On the contrary we know that Allah is more compassionate towards His slaves than a mother is towards her child so why exclude yourself and think these detrimental thoughts?

How do you know that your life won't turn for the better and everything will become alright? The night doesn't last forever and eventually gives way to daylight. Allah says:

“Verily, along with every hardship is relief, Verily, along with hardship is relief”
(Surah Al-Inshirah: 5-6)

Allah knows best how long it is best for you to live and when it is best for you return to Him. So instead of longing for death you should make the following dua:

“O Allah! Keep me alive as long as living is better for me, and when death is better for me according to Your Knowledge, take me unto You.”

Do not think about suicide as it is haram for a number of reasons:

1.) First and foremost because Allah, the King of Kings has made it haram in His Infinite Wisdom and to make something halal that Allah has made haram is not acceptable – in fact its outright rebellion.

2.) Secondly, you are not the owner of your body – nor do

you have the right to do with it what you please. By choosing to end your life at a time of your choosing you are committing an oppression on your body. In the terminology of jurisprudence, such a person is labeled a fasiq (evil-doer) even if the oppression he is committing is limited to himself and not to others.

3.) Thirdly, this action is so reprehensible that when Rasulullah (salallahu alayhi wa sallam) was brought the body of a man who had committed suicide, he (salallahu alayhi wa sallam) did not lead the Janazah (funeral prayer) for him. This in itself serves a poignant example of the how serious this crime is.

4.) Fourthly, it's not your decision to leave this world at a time of your choosing. By choosing a time of your death – you are in essence claiming to know better than Allah (Allah forbid) – who is the Most Wise, the All-Knowing, the All-Aware. This decision belongs to your Lord who has given you Paradise in exchange for your life and wealth as is mentioned in a Quranic verse. What a beautiful bargain! Both the purchase (Paradise) and the price of the purchase (your life and your wealth) has been provided by Allah. Then how can you choose when and how to leave?

**Structuring the deal into installments
reflecting purchase price as interest to gain tax
relief.**

Q: We have negotiated a sale of a property at R1 million cash or R2 million payable over 12 months in equal instalments. Our accountant has advised us to structure the deal by dividing the purchase price of R2 million into capital and interest in order to gain tax relief. The sale agreement will reflect the respective amounts as capital and interest. Kindly advise if the transaction is permissible according to Shari'ah.

A: The sale of the property for R2 million payable over 12 months in equal instalments is permissible. To record the purchase price as interest in order to gain tax relief is permissible. The amount reflected as interest for tax relief will not be interest.

Bequest made by non-Muslim parents in favour of their Muslim children.

Q: Kindly explain the Shar'i position of the bequest made by non-Muslim parents in favour of their Muslim child in their Will. Will it be Mīrāth (inheritance) or Wasiyyat (bequest)?

A: There are differences of opinion regarding Muslims inheriting from non-Muslim relatives. According to the majority of the Sahāba (Radhiyallahu `anhum) and Tabi'in (Rahimahumullah), Muslims do not inherit from their non-Muslim relatives based on the following Hadīth:

Usāma Ibn Zaid (Radhiyallahu `anhu) narrates that Rasulullah (Sallallahu `alayhi wasallam) said, 'A Muslim cannot inherit from

his non-Muslim relatives and a non-Muslim will not inherit from his Muslim relatives.' (Mishkāt Pg.263; Merāj).

However, a Muslim and non-Muslim can make a bequest for a non-Muslim and Muslim respectively. (Raddul Mukebtār vol. pg.652; H.M. Sa'id)

Any bequest made in favour of a Muslim relative by his non-Muslim relative and vice versa will fall in the category of wasiyyat and will be governed by the rules and principles of Wasiyyat. The underlying principle being that the wasiyyat cannot exceed one third of the nett estate after paying funeral expenses and debts.

An example of Dimishing Musharakah (Partnership)

Q: I am engaged in the business of renting out heavy machinery at hourly rates based on usage or fixed daily and monthly rates. Currently I am facing constraints in capital to expand further. Is it permissible to:

1.obtain machinery on a fixed monthly rental from a individual who possesses the funds required to purchase such machinery for a fixed term (ie to pay a fixed monthly rental irrespective of usage) and rent it out in turn and earn income from it,

2.to purchase the machinery at a price agreed up-front but paid at the end of the tenure of rental or by installments,

3. if repayment by installment is allowed can the rental be adjusted on the basis of owning a share of the machine, say cost of machine - \$ 100,000 up-front agreed purchase price - \$ 100,000 monthly rental - \$ 3,000 first installment paid at the end of first year - \$ 50,000

After the payment of \$ 50,000 at the end of first year can the rent be reduced proportionately to \$ 1,500 (with mutual agreement) from the beginning of second year on the basis of owning one half share of the machinery (purchase agreement to specify risk and reward to accrue on the basis of ownership).

A: Firstly, the ruling pertaining renting out something obtained on rent is:

- If it's given out on the same rent or less than the rent paid to the owner, then it would be permissible.
- If it's given out on a rent higher than the rent paid to the owner, then the extra rent has to be given out on charity.
- However, if any modifications are made to it, then giving it out at a higher rent will also be permissible, on condition that the owner does not restrict him from renting it out to others.

Rad-ul-muhtar Vol: 6 Pg:91 (H.M. Sa'eed Company) ²
(Fatāwa Mahmūdīyah Vol. 13 Pg.398
; Fatāwa Mahmūdīyah Vol. 17 Pg.369)

As far as the second and third methods are concerned, they are permissible and the concept of Diminishing Musharakah will be applied.

Diminishing Musharakah

According to this concept, a financier and his client participate either in the joint ownership of a property or an equipment, or in a joint commercial enterprise. The share of the financier is further divided into a number of units and it is understood that the client will purchase the units of the share of the financier one by one periodically, thus increasing his own share till all the units of the financier are purchased by him so as to make him the sole owner of the property, or the commercial enterprise, as the case may be.

(An Introduction To Islamic Finance Pg. 82 , Idaratul Ma'arif)

In the situation mentioned in the question, the share or the financier will be divided into 2 units. However, the partnership and the subsequent purchase by the client must be completely separate and independent. The purchase of

²(المستأجر أن يؤجر المؤجر (الح) أي ما استأجره بمثل الاجرة الاولى أو بأقلص، فلو بأكثر تصدق بالفضل (رد المحتار ج ٦ ص)
وَلَهُ السُّكْنَى بِنَفْسِهِ وَإِسْكَانُ غَيْرِهِ بِإِجَارَةٍ وَغَيْرَهَا) وَكَذَا كُلُّ مَا لَا يَخْتَلِفُ بِالْمُسْتَعْمِلِ يَبْطُلُ التَّشْيِيدُ ؛ لِأَنَّهُ غَيْرُ مُفِيدٍ ، بِخِلَافِ مَا يَخْتَلِفُ بِهِ كَمَا سَيَجِيءُ ، وَلَوْ آجَرَ بِأَكْثَرِ تَصَدَّقَ بِالْفُضْلِ إِلَّا فِي مَسْأَلَتَيْنِ : إِذَا آجَرَهَا بِخِلَافِ الْجِنْسِ أَوْ أَصْلَحَ فِيهَا شَيْئًا

the shares by the client cannot be a condition of the partnership. That will lead to two transactions in one, which is prohibited.

Exchanging different currencies

Q: I need your urgent reply as these doubts are disturbing me a lot. I sell euros to a close friend and normal price of euros is around 10r in the market but my rate is 12rands and the facility with me is that he pays the euros with dated cheques 4 to 5 to 6 months since we hv the trust between us the problem is that someone told me that this is *riba* since hes paying more because i give him facilitys as if he would hv cash he could buy for 10r with anyone he wouldnt need my services but with me he pays more because of the dated cheques ?

Please inform this falls on *riba* selling the euros more expensive since i know he needs my services ?

A: We understand from your question that you sell Euros to your friend in exchange of rands. This being the case, where there is an exchange of two different currencies, there are basically two options:

1) **SOLD ON THE SPOT:** The Euros can either be sold on the spot at whatever rate is agreed upon between the parties, and not necessarily the market rate.

2) **DEFERRED PAYMENTS:** Alternatively, if the payment is deferred on either side as in your case, the

exchange must be in accordance with the market rate.

*(Contemporary Fatawa Pg. 141,
Mufti Taqi Uthmani, Idara Islamiyat)*

Hence, the R2 excess charge will be Riba (usury) and cannot be used for ones personal benefit. It should be disposed off to poor and needy Muslims or non-Muslims.

Rent 2 Own

Q: Assalamoalaikum, recently one of the Muslim community members here in Ottawa Canada came was offered the following home purchasing option by a local company. (below). Can the respected Ulema assist us by reviewing the program offered to see if it meets the requirements of a valid Islamic transaction.

Our program allows you to live in your dream home today without having to meet the typical financing qualifications required by the big banks. Our unique program is designed to assist Canadians who experience difficulty in qualifying for conventional financing, either because of bruised credit or lack of down payment.

Our program is very flexible in the amount of down payment required and/or the monthly payments. Once we approve your application, you are treated as the owner of the property the day you move in. Our program is design to help you qualify for financing as soon as possible. Typically we can help you qualify for conventional financing within 1-2 years if you follow our program. We can extend the program longer if

necessary as long as you are not in default with us. Our credit counselor will help you rebuild, repair or establish your credit rating. Our Counselor will review your credit report with you and provide you with a personalized plan for you to follow. This plan, if properly executed by you during the rental term, will improve or establish your credit rating sufficiently to be approved by conventional lenders.

We rent you the home for a period of 1-2 years with the Option To Purchase at the end of the rental period. Our tenant/buyers love it because it gives them time to save up for a larger down payment, time to clean up past credit problems or time to sell another home. We are obligated to sell the home to you. However, you are not obligated to buy. When you purchase the home 100% of your Initial Option Payment Credit and 100% of your Monthly Option Payment Credit is credited towards the purchase price of the home. These credits will act as your down payment. If you decide not to purchase the home you will lose your Initial Option Payment Credit and your Monthly Option Payment Credit. We commit ourselves to helping you at a great financial expense, so it's only natural for you to lose your credits for not keeping your commitment. We do all we can to make your dream of home ownership a reality so please help us help you. Do not join our program unless you are truly committed to home ownership.

The purchase price will be established up front before signing and is based on the projected value of the home at the end of your occupancy agreement. If the property appreciates more, which is very possible, you benefit from that increase.

What Is Rent 2 Own?

Rent 2 Own consists of two separate contracts. The first contract is an Occupancy Agreement and the second is an Option to Purchase Agreement. The Occupancy Agreement is similar to a rental contract.

The Option to Purchase Agreement is the contract stating your intentions to buy the property within a specific period of time.

Our Rent 2 Own Program requires a deposit of 5% which we call "Initial Option Payment Credit" (Non-refundable). To purchase the property you will need another 5%. This 5% is divided by the number of months in your Occupancy Agreement and added to the market rent of the property. This is done to make sure you have the full 10% down payment to buy the property. The higher your deposit, the lower your monthly payments will be.

Suppose you want to buy a property that by our estimation will be worth \$256,000 at the end of your Occupancy Agreement in 2 years and you only have \$12,800 or 5% to put down as the Initial Option Payment Credit. You will still need another 5% or \$12,800, so we divide the \$12,800 by the number of months in your Occupancy Agreement to give us the Monthly Option Payment Credit. This will be added to your current market rent and is non-refundable. Basically, we let you pay your down payment one month at a time.

Banks have strict lending policies that restrict many individuals from qualifying for a mortgage. But with Rent 2 Own Canada it's easy to qualify. The program is flexible and can be customized to your needs. If you have a reasonable Initial Option Payment Credit and good income to support the additional Monthly Option Payment Credit, you should qualify.

In addition, our credit counselor will help you rebuild, repair or establish your credit. They will review your credit report with you and provide you with a personalized plan for you to follow. Our tenant/buyers love it because it gives them time to save up for a larger

down payment, time to clean up past credit problems or time to sell another home.

Warning

The Option To Purchase obligates the owner to sell the home to you. However, you are not obligated to buy. When you purchase the home 100% of your Initial Option Payment Credit and 100% of your Monthly Option Payment Credit is credited towards the purchase price of the home. These credits will act as your down payment. If you decide not to purchase the home you will lose your Initial Option Payment Credit and your Monthly Option Payment Credit. We commit ourselves to helping you at a great financial expense, so it's only natural for you to lose your credits for not keeping your commitment. We do all we can to make your dream of home ownership a reality so please help us help you. Do not join our program unless you are truly committed to home ownership.

Home ownership is hands down the single best investment a family can make. Rent 2 Own Canada strives to create win-win-win situations for our tenants/buyers, investors and our company.

A: We have studied the Rent 2 Own programme referred to in your query.

The basic structure of the deal is clear. There are two contracts, a rental contract and an option to purchase contract.

It would be more clearer to us if the schedule of the rentals be provided to have a more clearer understanding of how the rentals are linked to the purchase price.

We gauge from the explanation of the scheme that although it is stated that there are two contracts, they have been intrinsically linked through the option for purchase.

The client will pay a rental as well as 5% option to purchase. He will require to give another 5% to make a 10% down payment towards the purchase price.

If the client does not purchase the property he forfeits the 5%. If he does purchase then the 5% is included in the rental. The other 5% is also included in the rental and divided in proportion to the monthly instalments. Hence the 10% is rental as well as part of the purchase price. This structure is incorrect for the following reasons.

1. The rent contract must be completely separate and independent. It must not be legally linked to the purchase contract.
2. Similarly the purchase contract must also be completely independent of the rental contract even in terms of the payment schedule.
3. The 5% deposit of initial option non refundable clause is incorrect. This is paying for an option. An option is not an object of transaction.
4. The remaining 5% and the initial deposit of 5% will be rental and eventually be part of the purchase price. Hence the client will have a legal claim to offset that against the rentals. This clearly illustrates that there is a mixture of two transactions in one. It is stated in a hadīth:

نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعَتَيْنِ فِي بَيْعَةٍ

Rasulullah salallahu alayhi wasallam prohibited from two transactions in one.

(Sunan Tirmidhi #1231)

There is an alternative to this scheme. The company may contact us we will assist them design a Shari'ah Compliant alternative with the same spirit of the scheme in reference.

Two basic forms of partnerships

Q: One brother is in partnership with a non muslim ,importing and exporting clothes. There are no haraam items involved. How should he go into partnership according to the shariah, what should he do and not do? Could you explain more on the process of the goods being insured...?

A: There are two basic types of partnership

1. Mudārabah
2. Mushāarakah

In Mudārabah the partnership is where one provides the capital only and the other provides the labour only. The partner providing the labour uses the capital and makes an investment.

Both parties mutually agree to share the profits. If there is a loss, it will be consume the capital. Kindly find a detailed

Mudārabah Contract at our website : A Guide to Mudarabah Agreement . On this link you may also download a pdf copy of this agreement.

In Mushārah, the capital contribution is from all the partners. It is not necessary for the capital contribution to be equal. The profit also will be divided according to a mutually agreed percentage. If there is a loss, it will be pro-rata the capital contribution.

Besides the above broad principle of Mushārah, some points to consider are:

- The type of business partnership must be halāl.
- All the issues of partnership should be clearly mentioned. There shouldn't be any ambiguity on any issue.
- The term of partnership should be specified.
- Record the partnership in writing.
- Include a mediation and arbitration clause to address disputes.
- Identify a suitable person to resolve such disputes.

It is best a draft partnership agreement be designed according to ones specific needs and sent to me. I will check the Shari'ah Compliancy of the agreement and offer my observations accordingly.

Income from Fraudulent Degrees

Q: If someone get fraud degrees . Are his earnings are Haram?

A: The hallmark of a Muslim is to be truthful and honest. It does not behove a Muslim to speak lies and cheat. Those are the traits of a hypocrite. It is truthfulness and honesty that leads a person to recognise Allah and get close to Allah. A liar and cheater is deprived of the closeness to Allah and the true recognition of Allah Ta'āla. Truthfulness and honesty is not confined to the issues of faith. It is in all spheres of life; truthfulness in one dealings, truthfulness in one's family and associates. Truthfulness in education and examination reflects the real value of a Muslim. To cheat in exams and fraudulently obtain a degree is an abhorrent act. If a person cheats and lies in one issue, that will lead him to lies in another issue. It is a common saying, "a liar will have to speak ten lies to defend one lie".

Nevertheless, the issue of the earning being *halal* with a fraud degree depends on the service provided.

If such a person correctly and appropriately provided the service, his income in lieu of the service will be *halal*. The sin of speaking lies and fraudulently obtaining a degree is a different issue.

Istikharah

Q: I have a question regarding istikhara...is istikhara allah(swt) decision or an advice especially when we see a dream?

A: Istikhārah is to seek the guidance of Allah Ta'ala.

Allah Ta'ala is *'alimul ghaib* (Knower of the unseen). As human beings we are trapped in not knowing the future. Our intelligence and insight is also limited. If we knew what the future holds for us or had absolute intelligence, then we would probably not made any wrong decisions. In life we have to make some vital decisions and cannot afford making a mistake in that. We thus consult (*Mashwarah*) appropriate people and also make Istikhārah (seek divine guidance).

In Istikhārah, Allah guides us to what is good or bad for us in whatever we are seeking guidance in. The decision is left up to us. Ultimately only that will happen which is in the absolute knowledge of Allah.

Seeing a dream in Istikhārah is not necessary. When one makes Istikhārah correctly and with a balanced mind, the feeling that comes in the heart is guidance from Allah. If one is doubtful when making Istikhārah, the Istikhārah should continue until one is satisfied. A dream in Istikhārah could also be an indication to the guidance sought.

It is best to refer to a learned pious person to interpret the dream. If a person makes Istikhārah and made a decision and then realised having made a mistake in the decision, then that is because:

- The Istikhārah was not correctly carried out. OR

- Made Istikhārah with a preconceived mind. The dream in Istikhārah was a reflection of one's thought. OR
- Still in doubt and terminating the Istikhārah and making a hasty decision. OR
- The dream was incorrectly related or interpreted.

If the Istikhārah was correctly carried out then the only reason for the adverse conditions is Taqdīr. As Muslims, it is wājib to submit to Taqdīr.

Importance of making a will

Q: I would like to know if a will was made out and things change in there over the years like my mom had a house when she made out her will but a few years later she sold the house and came to live by me which I just bought a house she gave me an amount of money and told me to use it as part of my deposit for my house. She now passed on and in her will stated that if she still had a house then the house must be sold and the money must be given to the grand children. But she now doesn't have a house when she passed on do I need to pay the money back that she has given me even though she never said that I have to pay it back. And is it right that the kids want it and that it must not go to the grand children

A: *Shari'ah* has emphasised on drawing up one's will.

مَا حَقُّ امْرِئٍ مُسْلِمٍ لَهُ شَيْءٌ يُوجِي فِيهِ، يَبِيتُ لِيْلَتَيْنِ إِلَّا وَوَصِيَّتُهُ مَكْتُوبَةٌ عِنْدَهُ

‘Abdullah ibn ‘Umar radiallahu ‘anhu narrates that Rasulullah salallahu ‘alayhi wasallam said,

It is not appropriate for a muslim who has something to make a bequest for, that he spends two nights except that his bequest is written by him.

(Sabih Bukhāri #2738)

The *Fuqahā’* have ruled that it is *Mustahab* (desirable) to draw up ones will and bequest. That is if one does not have any *Shar‘ī* obligation on him. For example, he does not owe people money, or people do not owe him money or he does not have people’s trust in his possession. If he has a *Shar‘ī* obligation on him, for example he owes people money or people have entrusted things in his possession, it is *wājib* to make a will and record this in his will.

لَكِنْ إِنْ كَانَ عَلَى الْإِنْسَانِ دَيْنٌ أَوْ وَدِيعَةٌ لَرَمَتْهُ الْإِضَاءُ بِذَلِكَ

...however if there is any debt of item or trust upon a person, then it will be binding for him to make a bequest for that...

(Hāshiyatut Tibī ‘alal mishkāt il masabih)

Death is imminent. Therefore one should draw up ones will as soon as possible. If a person missed some *Fardh Salāh* or did not discharge his *Zakāh*, he should record all that. It is possible that a person being conscious of his *Shar‘ī* obligation of drawing a will and conscious of death draws his will but outlives the will. He may have recorded his missed *salāh* but made up for some missed *salāh*. He may have recorded a debt but paid for it or received payment.

He will have to adjust his will accordingly to reflect the correct position of these issues in his will.

وَأِنْ تَجَدَّدَ لَهُ أَمْرٌ يَحْتَاجُ إِلَى الْوَصِيَّةِ بِهِ الْحَقُّ بِهَا

...and if the matter which requires a bequest changes (from its recorded state) then he shall revise it (bequest)...

(Hāshiyatut Tibī 'alal mishkāt il masabih)

Reverting to your query, your mom recorded having a house in her will and bequeathed the proceeds of the sale of the house to the grandchildren.

As a principle, a bequest can only be made for a non-heir to a maximum of one-third of the Nett Estate. If the proceeds of the house was within one-third of the Nett Estate and the grandchildren are not heirs, then the bequest was valid. If the proceeds of the sale of the house exceeded one-third of the Nett Estate, the excess amount will not be valid.

Similarly, if the grandchildren were heirs, the entire bequest will not be valid.

Nevertheless, your mom sold the house and now does not own the house. Therefore the issue of the bequest falls away. She will have to adjust her will accordingly. The money she gave you for deposit of your house is a gift to you. You do not have to return that money to her estate. Her children cannot claim that money from you.³

³ (قَوْلُهُ: هُوَ الْإِجَابُ) وَفِي خِرَازَةِ الْفَتَاوَى: إِذَا دَفَعَ لِأَنِيهِ مَالًا فَتَصَرَّفَ فِيهِ الْإِنِّ يَكُونُ لِلْأَبِ إِلَّا إِذَا دَلَّتْ دَلَالَةُ التَّمْلِيكِ بِرِيٍّ. قُلْتُ: فَقَدْ أَقَادَ أَنَّ التَّلَفُّظَ بِالْإِجَابِ وَالْقَبُولِ لَا يُشْتَرَطُ، بَلْ تَكْفِي الْقِرَاءَةُ

Working as an internal auditor

Q: I am Internal Auditor. My job involves doing mainly compliance based testing. Compliance of companies policies and procedures as well as legislative requirements. Based on the findings we would issue management with recommendations to improve the situation which they may or may not accept. Recommendations normally are best practise related. We report to the audit committee functionally and normally the Finance executive administratively. In essence we are have to be independent in order for us to be objective. We do no processing of transaction or monitoring. We used a risk based approach in deciding what to audit. The reason I mention all this is for you to have an understanding of the profession in general. I am in the process of applying for another job. I want to know what industries should I not consider. At the moment the best alternatives based on my work experience are the banks. can I apply here? Are there any areas that I should avoid altogether?

A: There are three angles to your query.

- As an auditor

الدَّالَّةُ عَلَى التَّمْلِيكِ كَمْ دَفَعَ لِقَعِيرٍ شَيْئًا وَقَبِضَهُ، (الدر المختار وحاشية ابن عابدين (رد المختار) ٥/٦٨٨)

(قَوْلُهُ: بِالْقَبْضِ) فَيُشْتَرَطُ الْقَبْضُ قَبْلَ الْمَوْتِ (المرجع السابق ٥/٦٩٠)

- Recommendations on policies, procedures and legislation requirements in a conventional bank.
- Remuneration from a conventional bank.

In general, an auditor inspects recordings of a transaction according to set policies. In principle, there is nothing wrong with the practice of auditing. An auditor is not part of the recorded un-Islamic dealings. However, viewing the situation within the context of a conventional bank and the description of your job, it is obvious that the core practice of a conventional bank is interest related and other non-Shariah Compliant transactions. You will be required to inspect and analyse the policies and procedures of such transactions and make recommendations to improve everything related to that. Such a practice clearly falls within the prohibition of assisting in sins.

Allah Ta'ala says,

وَلَا تَعَاوُنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ

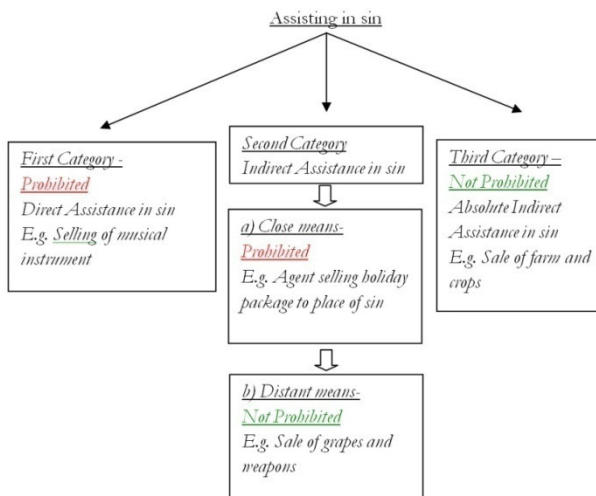
And do not assist in sin and oppression...

(Al Qur'ān 5:2)

Find attached a chart outlining the different categories of assisting in sins.

The third angle is the remuneration from the Bank. Generally the major source of a conventional bank is from interest and other non-Shariah Compliant transactions. Apart from the un-Islamic practice as an internal auditor with the job description explained by you, your remuneration from such a source will also be unlawful, thus

compounding the reason of prohibition in working in a conventional bank.



Why did Allah sent me to this world and test me without my consent?

Q: I have a weird question but it keeps haunting me. I am unable to understand a simple question that why Allah sent me to this world? In the light of Islamic teachings, this life is considered to be an examination and the after life would be based upon our performance in this world. But, I feel that this is unjust. This examination has been forced upon me. I was never willing to undertake this exam then why do I have to face all this? And what difference would it make for Allah if I pass it or even get failed. Then what is the purpose of all this forced examination? Isn't this a unjust system?

A: It is true that Allah Ta'āla created His creation including you and I without us having any say in our creation. Our creation and existence is the sole decision of Allah Ta'āla. Allah Ta'āla is the One who created us, owns us, and does what He wills. He decides how we live, how we die, what sustenance we get, how much power we amass, and how much honour we get.

In short, every aspect of our life is completely dependent on Him. No creature has the right to question Him: “Why did you do this?” or, “Why didn't you do that?” Allah Ta'āla says in the Qur'ān Karīm:

لا يسأل عما يفعل وهم يسألون

He(Allah) is not questioned of what He does, and they(people) are questioned.

(Surah Al-Anbiya: 23)

As human beings Allah Ta'āla blessed with the privilege to be among the recipients of the Message of the Quran, to ponder on it, to reflect and understand the true meaning of life, and why we are here. If we turn that upside down and instead of thanking Allah, we start complaining about, “Why did you do this to me?” and, “Why have you sent me here?” then that is unfortunate and ungrateful.

It is common knowledge that Allah has honored humans in many ways such as granting us: intelligence, reason, the gift of communication and other capabilities that far exceed those of any plant or animal life forms:

“And we bestowed dignity on the Children of Adam and provided them with rides on the land and in the sea and provided them with a variety of good things and made them much superior to many of those We created.”

(Surah Bani-Israil, Verse 70)

The more gifts that are given, the greater the responsibility and accountability. Is that not how the laws of this world work as well? An executive of a company is more accountable than the staff he manages and consequentially the reward (i.e. salary) he receives in return is higher.

Isn't it true that, "Heavy is the head that wears the crown"? Such is the case of man. He has not been given all these gifts to simply live out a meaningless life only fulfilling his base desires like an animal and ignoring the higher purpose for which he was created:

*"So did you think that We created you for nothing
and that you will not be brought back to Us?"*

(Surah Al-Mu'minun, Verse 115)

Our mind, our brain power, and our ability to ponder and reflect should be used in showing our immense gratefulness to Allah. If we fritter it away and waste our energy and brain power in pondering about, "Why did Allah force this on me?" then we are not utilizing our ability to reflect how Allah meant for us to reflect.

Then, instead of our minds becoming a tool of bringing us peace and delight by recognizing Allah Ta'āla, we would then be using it as a tool of evil, to question and doubt the wisdom of Allah Ta'āla, as Satan did when he refused to submit and prostrate to Adam (alayhis salam).

Why did Satan do that? It was because he questioned the wisdom of Allah, and followed his own rationale and

thinking. Satan assumed that fire is better than clay, and therefore he was better than Adam (alayhis salam).

"He (Allah) said: 'What stopped you from prostrating when I ordered you?' He said 'I am better than him. You have created me from fire and created him from clay.'"

(Surah Al-'Araf 12)

By turning to the Quran we realize that the questions you have posed have already been answered by Allah:

"The One who created death and life, so that He may test you as to which of you is better in deeds. And He is the All-Mighty, the Most-Forgiving."

(Surah Al-Mulk, Verse 2)

Our existence is surely not of our choice. It is the sole choice of Allah. However Allah equipped us with intelligence to recognize Him and be obedient to Him.

He will reward us for being obedient to Him. Why don't we ask, why should we be unjustly rewarded for obedience as Allah Himself gave us the tools for His obedience? The reward of Allah Ta'āla is the grace of Almighty Allah. He rewards us for our obedience to Him with the tools He provided to us. Would it then be incorrect to say why should we be punished for disobeying Him even after being equipped to obey Allah Ta'āla?

Had Allah not given us intelligence and then imposed a test upon us, then that is a different issue. That would be unjust. Allah Ta'āla already declared in Qur'ān Karīm

لَا يَكْلِفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا

No soul is burdened except according to its ability

(Surah Al Baqarah: 286)

How unjust it is of us not to consider Allah Ta'ala's grace and favours on us!

Disposing Roti/Chapati

Q: What can you do to leftover foods like chapatti etc because you cannot give it to the ducks etc as you will be fined and when you give it to the birds they dont eat it so we give them birds seed.so can we throw it away or not?

A: You may consider crushing the chapati and placing it on the trails of ants.

Calculating Zakat

Q: you've got a house in pakistan 3 floors.Bottom floor has 4 houses on rent and the rest 2 floors is used by my dads family back home. do we have to give zakaat on the rent of those houses as they are extra.

A: There is no Zakat payable specifically on rentals received.

The rentals received will form part of the other cash and the decision of Zakat payable on the cash will depend upon the individual's financial calculation. Broadly, if there is only

cash and no liabilities or the cash exceeds the liabilities, then the cash will be subject to Zakat. You may refer to the attached for further clarity on calculation of Zakat.

Calculating Zakah:

Zakāh will become compulsory on a sane and mature Muslim when his / her wealth exceeds the Nisāb and this amount of wealth is maintained for the duration of one entire lunar year.

The Nisāb is 20 Mithqals (87.479 g) for gold and 200 Dirhams (612.35 g) for silver. Any currency equal to the amount of any of these Nisābs will also render Zakāh binding.

For example, if the price of silver is quoted at R4.40 per gram then the Nisāb will equal approximately R2, 702. If one's wealth decreases below the Nisāb during the year but before the expiry of the year, it reaches the Nisāb, Zakāh will be binding contrary to the case of the wealth not rebounding to amount of Nisāb upon the expiry of the year. However, if one loses his entire wealth, a new lunar cycle will begin after reaching the Nisāb for the second time. All debts and liabilities will be deducted from his wealth before calculating his estate.

Only that particular year's liabilities will be deducted from long-term debts such as car / home financing. Loans given and other receivables into one's estate will be accounted for even if the person is not paid by his debtor for several years. Any gold or silver items such as jewelry, ornaments etc will also form part of Zakatable assets.

If the percentage of gold or silver in the item is more than the metal alloy with which it is amalgamated the entire item will be considered as gold or silver. If the percentage of alloy is greater, if there is enough gold or silver where it is

possible for it to be extracted, then Zakāh will be compulsory only on the value of the gold or silver therein and not on the entire item if the Nisāb is reached.

Similarly, any items purchased for trade will be subject to Zakāh and must be accounted for in the calculation. A person should add his / her cash savings, values of gold and/or silver, value of the merchandise of trade and any receivables from debts etc. Thereafter, he / she should deduct the amount of debts owed to others. If the value of the net total equals the Nisāb of gold or silver, he / she will have to pay 2.5% of the amount in Zakāh.

Hereunder is a brief chart illustrating the calculation of Zakāh:

Personal Wealth	Amounts:
1. Amount of Cash and Savings at home or in the bank	R 10,000
2. Current value of any gold and silver jewelry, coins, utensils etc	R 5,000
3. Value of assets and merchandise for trade	R 20,000
4. Receivables and loaned amounts to others	R 5,000
Total these amounts here:	R 40,000

Amount Debts to be paid:	R 20,000
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Subtract the total amount of debts for the year from the above amount.

Nett Total of Zakatable Wealth	R 20,000
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if the net total of Zakatable Wealth is more than the Nisab amount then...

Multiply the nett total by 2.5% (nett amount x 0.025)	R 500
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Property Partnership Programme

Q: Can the respected Ulema review the following property partnership agreement to see if it is Islamically valid?

PROPERTY PARTNERSHIP AGREEMENT

This document is to certify that A and his wife B have purchased a home in partnership with C and D for a total of \$278,000 on October 1st 2010, of which 75% payment of this property has been made by C and D and the remaining 25% payment of this property has been made by A and B. Therefore 75% of partnership in this property belongs to C and D and the remaining 25% of partnership in this property belongs to A and B.

All partners have agreed to the following:

A and B will occupy the property and reside in it for a total rent of \$1000 - (minus) 25% which will be payable on a monthly basis to C and D.

All utilities (hydro, heating etc.) associated with this property will be managed and paid by A and B.

Home insurance of the above mentioned property will be managed and paid by A and B.

City water bill and property tax payments of the above mentioned property will be shared according to the ratio of partnership in the property.

All major expenses/costs/maintenance associated with the above mentioned property will be shared according to the ratio of partnership in the property.

In the case of selling of the above mentioned property, any profit or loss arising due to the sale of the property will be shared according to the ratio of partnership in the property.

The partnership in the above mentioned property shall begin on October 1st, 2010 and shall continue until a mutual agreement is made to terminate this agreement.

A: Our comments are after each clause.

Clause: A and B will occupy the property and reside in it for a total rent of \$1000 - (minus) 25% which will be payable on a monthly basis to C and D.

This is unclear. What is meant by 25% payable to C & D. Is it 750 payable to C and D. Be more clear. If so, this is permissible.

Clause: All utilities (hydro, heating etc.) associated with this property will be managed and paid by A and B.

This is correct.

Clause: Home insurance of the above mentioned property will be managed and paid by A and B.

This is incorrect. Home insurance should be in the ratio of the partnership if Home insurance is a legal requirement.

Clause: City water bill and property tax payments of the above mentioned property will be shared according to the ratio of partnership in the property.

The city and water bill will be the full responsibility of A & B. C & D may subsidise A & B if they wish to.

Clause: All major expenses/costs/maintenance associated with the above mentioned property will be shared according to the ratio of partnership in the property.

In principle, expenses pertaining to the actual building and property will be shared in proportion to the partnership. Anything pertaining to utilities and normal use will be for the account of A & B.

Alternatives to Progressive Payments Plan

Q: My brother approached me to finance a load of petrol. I have put a progressive plan in repaying the loan with a profit. He pays back part of the capital with profits and starts using the profit he made to fund his future load. I have settled on the 15% table.

Is this acceptable? The amount is set and nothing increase or decreases with the price of petrol. Below is the table for you to review:

Load number	Capital Balance	Ave price of petrol	Liters bought	Expected Gross Profit	Profit share	Capital repayments
1	600,000.00	8.46	35,460.99	57,446.80	8,617.02	0
2	600,000.00	8.46	35,460.99	57,446.80	8,617.02	60,000.00
3	540,000.00	8.46	31,914.89	51,702.12	7,755.32	60,000.00
4	480,000.00	8.46	28,368.79	45,957.44	6,893.62	60,000.00
5	420,000.00	8.46	24,822.70	40,212.76	6,031.91	60,000.00
6	360,000.00	8.46	21,276.60	34,468.08	5,170.21	60,000.00
7	300,000.00	8.46	17,730.50	28,723.40	4,308.51	60,000.00
8	240,000.00	8.46	14,184.40	22,978.72	3,446.81	60,000.00
9	180,000.00	8.46	10,638.30	17,234.04	2,585.11	60,000.00
10	120,000.00	8.46	7,092.20	11,489.36	1,723.40	60,000.00
11	60,000.00	8.46	3,546.10	5,744.68	861.70	60,000.00
			Your profit @ 15%		56,010.63	

A: According to our understanding, this is how your scheme will work.

You provide R600,000 capital to your brother to finance the petrol. He will sell the petrol and give you 15% of the profit. With that he will pay R60,000 towards the R600,000 loan. The capital is then decreased to R540,000. Again petrol is purchased and the profits are shared at 85% and 15% ratio. Another R60,000 is paid towards the remaining loan of R540,000. The balance R480,000 is carried over for the next cycle until the full R600,000 is paid.

If our understanding is correct, then effectively you are advancing a loan of R600,000 (as also stated in your query) and receiving an excess of R56,010.63 at a 15% rate.

This is prohibited for the following reasons.

The R600,000 is a loan. That is clearly understood from the repayment cycle. Every time R60,000 is paid, the amount from R600,000 is decreased. Hence the excess of 15% R28,005.32 will be *Ribā*.

The *Shari'ah* Compliant alternative to this is the *Mudārabah* Scheme

Mudārabah

Mudārabah is where you provide the capital and your partner provides the labour and the profit sharing is according to mutual agreement. For example you provided R60,000 capital to your partner. He sells the petrol and you receive a 15% profit. He will receive the remaining 85% profit.

Upon the completion of this *Mudārabah*, if there were profit, you are then entitled to the full return of the capital amount of R600,000. This completes one *Mudārabah* cycle. You may then enter into another separate *Mudārabah* cycle with your partner with the same capital amount or similar amount at the same profit percentage or a new profit percentage.

The second deal does not have any link with the first deal. The difference between this scheme and the one proposed

by you is every consignment is completely separate as opposed to your proposal where R60,000 is subtracted from the previous amount creating a impression of R600,000 being a loan and R30,000 of every subsequent deal as a payment to that loan.

Secondly, should there be a loss for some reason it will be for your account. There is nothing wrong in mitigating the risk to ensure you get the 15% profit. Yes, the concept of guaranteed profit without any risk of loss is incorrect. If this cycle is followed, with the risk of loss in the capital, the end result will be the same if the risk is mitigated all the way down. The 15% profit will be the reward of the risk undertaken.

Another alternative is the *Mushārahah* Scheme.

Mushārahah

Mushārahah is where both parties make a capital contribution and both share the profits at a mutually agreed percentage. We understand your friend does not have capital.

The first consignment could be a *Mudārahah* one where your funds will earn an 85% profit. In the second consignment you could enter into a *Mushārahah* partnership where his 85% profit from the previous deal forms part of his capital contribution and both agree a % of the profit. You could reduce your capital by R60,000 in every new consignment. In this design, if there is a loss, it will be pro-rata the capital contribution. The profit is the reward of the risk undertaken.

Again here, if the risk is mitigated and carefully managed, you could achieve the same or similar end result as what you designed in your progressive payment schedule. The difference is that the alternative here will result in profit that are *halāl*, wholesome and yield *barakah* as opposed to the excess on the guaranteed returned amount of the capital which is *Ribā*.

Working for a betting company

Q: 1) I know that betting is forbidden in Islam. But is working on a betting company as a software engineer is forbidden or bad as well? Last week I had an interview with a company, they are betting company and looking for a software engineer. And I am worried that if I work for such company then will it be violation of any rule of Islam, or not violating of rule but not suggested? Here the hiring company is a betting company.

2) I also saw another job advertisement, the advertising company does not do betting, but they develop software for betting company. Is working for such company is bad as well? Here the company who will hire me is not betting company like question1.

A:

1. At the outset we commend you for your query of earning a halal income. This stems from your deep conscious of Iman. You believe in Allah and His Rasul salallahu alayhi wasallam and Shariah. You are fully conscious of following the laws of Shariah. If you did not

bother of Shariah and earning a halal income, you would never have asked this query.

Rasulullah salallahu alayhi wasallam said,

طَلَبُ كَسْبِ الْحَلَالِ فَرِيضَةٌ بَعْدَ الْفَرِيضَةِ

Earning of Halal income is an obligation beyond other obligations.

(Shu'bul Imān lil bayhaqi #8367 , 11/175)

We make dya that Allah put barakah in your income,
Ameen

Reverting to your query,

Betting is haram (completely prohibited). This is expressly prohibited in the Quran.

Allah says,

يَسْأَلُونَكَ عَنِ الْخَمْرِ وَالْمَيْمِرِ قُلْ فِيهِمَا إِثْمٌ كَبِيرٌ وَمَنَافِعُ لِلنَّاسِ وَإِثْمُهُمَا أَكْبَرُ مِن نَّفْعِهِمَا

They ask you regarding wine and gambling; Say in them both is great sin and (although)

there is (some) benefit (in them) for the people but their sin is greater than their benefit.

(Qur'an 2:219)

There are two angles in working for a betting company.

- Developing a software
- Remuneration

If the software will be designed for the specific use of gambling, that is directly assisting in sin.

(Jawābirul Fiqh, Risālah I'ānah 'alal Ma'siyah)

Allah Ta'ala says,

وَلَا تَعَاوُنُوا عَلَى الْإِثْمِ
And do not assist in sin

(Qur'an 5:2)

If the software is not specifically designed for betting but has dual or multiple purpose and could be used for other permissible things, then generally developing such a software will not be prohibited. However, it is obvious that the betting company will use such software for betting purposes, hence it will not be permissible.

Besides, the issue of developing the software for the gambling company, your salary will be from haram source. That compounds the prohibition.

2. In the second query, you will not be working for a betting company but you will develop a software for a betting company. That too will be regarded as assisting in sin and prohibited.

Extended Warranty

Q: Is one allowed to purchase extended warranty for products. For example, most computers either come with 90 days or a whole year of warranty. However, most

companies offer customers the option to extend their warranty by paying more, is this allowed?

A: If an extended warranty is offered at the time of purchasing an item, the extended warranty will be permissible. The fee for the extended warranty will be regarded as part of the purchase price of the item. It is not permissible to purchase separate and independent warranty as that falls in the category of insurance.

Video Games Rental

Q: Is it permissible to open a video game entertainment centre and are such games permissible?

A: Video entertainment games have many unIslamic factors in them. Apart from the games having music and pictures which are prohibited, the nature of the games offered, for example, karate, shooting, killing, racing, etc. have a potential of raising one's emotions, thus having far reaching negative consequences in many aspects of ones life. Consider the following from the Encyclopedia, 1993-1997 - Microsoft Corp.

"Critics of video games contend that children spend too much time and money on the games and that immersion in the fantasy of video games can have adverse effects on personality maturation. There have also been reports that the flashing graphics can trigger seizures in people who have certain types of epilepsy."

Therefore, it is also not permissible to open a video game entertainment centre and such games are not permissible to play. The income generated from entertainment video machines will, therefore, not be permissible.

Hadith of Dajjal and Jassasah

Q:

Ponder on the info below and ask yourself if this hadith can be true?

It is reported in the book: "Pictorial History of Madinah", written by Dr. Muhammad Ilyas Ghani, on pages 22, 23, and 25 a hadith on Dajjal. The references he has given are from: Sahih Bukhari Hadith No. 1876; from the section 'Book of Strife & Signs of the Hour.' (ISBN- 9960-44-928-9. Printed in 1425 AH / 2004 AD; by Al-Rasheed Printers (Tel: 8368382) Authors Address: P.O.Box 447, Madinah Munawwarah. Kingdom of Saudi Arabia.)

The following questions need answers if what is narrated is true:

1. The Prophet was given the title of AL-AMIN even before he was granted Prophethood. The kuffar of Makkah kept their valuables with him prior, and after he proclaimed his message of Islam- so was there any need for anyone else to vouch for his truthfulness on any issue when he was reciting the Qur'an and people were flocking to the message knowing and understanding the words of the Qur'an were divine? Take the example of Omar, and how he became a Muslim in Makkah years before. This incident of Tamim Dari according to the narrator took place in Madinah when Islam was on the rise. The battle of Badr must have been fought and Muslims were sacrificing their all. Is it believable that verification was still needed by a non Muslim to the truthfulness of the Nabi?

2. *The Prophet was receiving wa'hy directly from ALLAH and knew about the munafikoon etc and was informed by ALLAH in the Qur'an when he left Makkah (during Higrab) that ALLAH will bring him back to Makkah, which promise was fulfilled. Also all the other prophecies that were fulfilled in his lifetime of the Romans, Abu Lahab, (and today the truth of the scientific facts, how the creation of human beings in the womb etc). Did the Prophet still need a Christian to vouch for his Prophethood?*

3. *If any person was confronted by an animal-man like al-Jassasa in a strange country, will he follow him when he was so fearful looking and trust him when he could be killed? Is it not said that he looked as a devil? Would any sane man follow such a fearful looking character?*

4. *This Dajjal it seems to live without eating and drinking for decades or centuries. According to the narration, he is bound with chains and is all alone except for al-Jassasa. He is in a standing position with leg chains upto his knees and chains around his neck. Surely he must need food and excrete and urinate. Yet it seems he does not eat food, and for how long?, nor does he answer the call of nature it seems. Yet he is powerfully built. Is he a superman? For how long can a human being stand upright like he is, and live without nourishment??*

5. *This person, Tamim Dari, does not ask Dajjal when he was chained, who chained him, and for how long was he chained, who gives him food and drink. Is that not strange?*

6. *How is it possible for Dajjal to know about the Prophet when he is in chains thousands of miles away? If anyone claims the Allah informed him will that not be a contradiction that ALLAH communicates with evil as well, then can that be true?*

7. *The only acceptable answer is that this so called hadith is false!!!!*

A: At the outset, we wish to state that our responses to the different objections have been kept as brief as possible.

Otherwise, the objections could be answered from various angles and dimensions. The objections are in the blocks. Our response follows after each objection.

1.) The Prophet was given the title of AL-AMIN even before he was granted Prophethood. The kuffar of Makkah kept their valuables with him prior to, and after he proclaimed his message of Islam- so was there any need for anyone else to vouch for his truthfulness on any issue when he was reciting the Qur'an and people were flocking to the message knowing and understanding the words of the Qur'an were divine? Take the example of Omar, and how he became a Muslim in Makkah years before. This incident of Tamim Dari according to the narrator took place in Madinah when Islam was on the rise. The battle of Badr must have been fought and Muslims were sacrificing their all. Is it believable that verification was still needed by a non Muslim to the truthfulness of the Nabi?

1.) If Rasulullah salallahu alayhi wasallam was *Al-Ameen* and there was no need for anyone to vouch for his truthfulness, then why was there objection to his claim of prophet-hood from the very people who knew him as *Al-Ameen*? All the enemies of Rasulullah salallahu alayhi wasallam knew Arabic. When Rasulullah salallahu alayhi wasallam was reciting The Qur'ān, they could have understood The Qur'ān and accepted Islam!

Furthermore Hazrat Tamīm Dāri radiallahu anhu had already accepted Islam when he narrated the incident. It was not a testimony of a non-muslim to the truthfulness of Nabi salallahu alayhi wasallam. It was a revert testifying.

Nevertheless, testimony of the truthfulness of Islam by people of other faith who convert to Islam merely support and consolidate the belief of the believers and further demonstrates the nobility and truthfulness of the Message of Islam.

If we were to take the assumption you have taken, then even the miracles of Rasulullah *salallahu alayhi wasallam* (*Mu'jizah*) would not have been necessary as he was known to be Al-Amīn. (The trustworthy one) Then according to your claim, the incident of *Shaqqu'l Qamar* (splitting of the moon) which is expressly mentioned in the Qur'ān is insignificant? If people believed in Rasulullah *salallahu alayhi wasallam* then what was the need for the incident of the splitting of the moon? Would you deny this too?

Allah Ta'ala himself says,

اِفْتَرَبَتِ السَّاعَةُ وَانْشَقَّ الْقَمَرُ

The Hour (of Judgment) is nigh, and the moon is cleft asunder.

(Surah Qamar 54:1)

2.) *The Prophet was receiving wa'hy directly from ALLAH and knew about the munafikoon etc and was informed by ALLAH in the Qur'an when he left Makkah (during Hijrah) that ALLAH will bring him back to Makkah, which promise was fulfilled. Also all the other prophecies that were fulfilled in his lifetime of the Romans, Abu Labab, (and today the truth of the scientific facts, how the creation of human beings in the womb etc). Did the Prophet still need a Christian to vouch for his Prophethood?*

2.) The first premise of this objection is based on a Christian vouching the truthfulness of prophet-hood of Rasulullah salallahu alayhi wasallam. We have clarified this issue in the previous answer. Hazrat Tamīm Dāri radiallahu anhu had already accepted Islam and then narrated his experience. He was not a Christian vouching for the truthfulness of the prophet hood of Rasulullah salallahu alayhi wasallam. Simple logic also has it that why would he still be a Christian then? This premise is miscalculated.

The second premise of this question is based on whether these miracles were for Rasulullah salallahu alayhi wasallam to fortify his Prophethood. This can never be correct since Rasulullah salallahu alayhi wasallam had full conviction of his prophethood. His fortification was even made by the mala'ikah. He did not need anyone to vouch for his prophet hood.

Miracles of the prophet are called Mu'jiza which means to make helpless. It is human nature that when one experiences something extra ordinary he is amazed and is sure that there is a supernatural power behind this incident. A miracle is something a human being witnesses with his own eyes but cannot mentally comprehend the issue. It is impossible for a human being to perform such a miracle by himself. The greater the impossibility of the incident, the greater the miracle. When the incident of Tamīm Dāri is authentically proven and he being a Sahabi narrates this incident himself, this is not to vouch for the prophethood of Rasulullah salallahu alayhi wasallam.

Rather, Rasulullah salallahu alayhi wasallam stated this incident to illustrate how a person once a Christian also believed in him. This is similar to how Allah Ta'ala refers to the Islam of Abdullah ibn Salam radiallahu anhu, who followed Judaism and accepted Islam. Did Allah need Abdullah ibn Salam radiallahu anhu to vouch for the prophethood of Rasulullah salallahu alayhi wasallam?

“...And a witness from the children of Israil testifies about something similar to it

and comes to believe in it while you persist in your arrogance”

(Surah Al-Ahqaf, Verse 10)

3.) *If any person was confronted by an animal-man like al-Jassasa in a strange country, will he follow him when he was so fearful looking and trust him when he could be killed? Is it not said that he looked as a devil? Would any sane man follow such a fearful looking character?*

3.) In the description of the events related by Hazrat Tamim Al-Dari (radiyallahy anhu), he readily admits that he and his party were afraid:

وفرعنا منها

And we were scared of her (Al-Jassasah)

(Muslim Shareef)

Being afraid does not mean that it did not happen. If an innocent civilian is taken as a prisoner and he is literally stripped naked, kicked and booted from head to toe, then ordered by soldiers dressed with armours and helmets carrying machine guns pointing at him to march into Guantanamo prison, is that not frightening enough? Does it mean prisoners were not persecuted and imprisoned in Guantanamo? Does it mean the prisoners didn't follow instructions of the Al-Jassasah (heavily armed soldiers)?

Talking and conversing with a beast is not impossible. Allah himself tells us about human beings talking to a beast:

And when the Word (of torment) is fulfilled against them, We shall bring out from the earth a beast to them, which will speak to them because mankind believed not with certainty in Our Ayat.
(Surah Al-Naml Verse 82)

Will you deny this verse too?

4.) *This Dajjal it seems to live without eating and drinking for decades or centuries. According to the narration, he is bound with chains and is all alone except for al-Jassasa. He is in a standing position with leg chains upto his knees and chains around his neck. Surely he must need food and excrete and urinate. Yet it seems he does not eat food, and for how long?, nor does he answer the call of nature it seems. Yet he is powerfully built. Is he a superman? For how long can a human being stand upright like he is, and live without nourishment?*

4.) The premise of this objection needs to be clarified. Is the objection on the incident of Hazrat Tamīm Dāri radilallahu anhu or the objection on Dajjāl. It now appears that the goal post is shifting from the incident of Hazrat Tamīm Dāri radilallahu anhu to Dajjāl and questioning whether Dajjal has supernatural powers. Is he Superman?

This is now questioning the power of Allah. Can Allah not give supernatural power to human beings? Did the youth of the cave not survive without food for 309 years?

وَلَبِثُوا فِي كَهْفِهِمْ ثَلَاثَ مِائَةٍ سِنِينَ وَازْدَادُوا تِسْعًا

So they stayed in their Cave three hundred years, and (some) add nine (more)

(Surah Al Kahf, 18:25)

Did Allah not raise Uzair a.s after 100 years and the food besides him didn't perish!

أَوْ كَالَّذِي مَرَّ عَلَى قَرْيَةٍ وَهِيَ خَاوِيَةٌ عَلَى عُرُوشِهَا قَالَ أَتَىٰ يُحْيِي هَٰذِهِ اللَّهُ بَعْدَ مَوْتِهَا فَأَمَاتَهُ اللَّهُ مِائَةَ عَامٍ ثُمَّ بَعَثَهُ قَالَ كَمْ لَبِثْتَ قَالَ لَبِثْتُ يَوْمًا أَوْ بَعْضَ يَوْمٍ قَالَ بَلْ لَبِثْتَ مِائَةَ عَامٍ فَانْظُرْ إِلَىٰ طَعَامِكَ وَشَرَابِكَ لَمْ يَتَسَنَّهْ وَانْظُرْ إِلَىٰ جَمَازِكَ وَانْجَعَلَكَ آيَةً لِلنَّاسِ وَانْظُرْ إِلَى الْعِظَامِ كَيْفَ نُنْشِزُهَا ثُمَّ نَكْسُوهَا لَحْمًا فَلَمَّا تَبَيَّنَ لَهُ قَالَ أَعْلَمُ أَنَّ اللَّهَ عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ

Or (take) the similitude of one who passed by a hamlet, all in ruins to its roofs. He said: "Oh! how shall Allah bring it (ever) to life, after (this) its death?" but Allah caused him to die for a hundred years, then raised him up (again). He said: "How long didst thou tarry (thus)?" He said: (Perhaps) a day or part of a day." He said: "Nay, thou hast tarried thus a hundred years; but look at thy food and thy drink; they show no signs of age; and look at thy donkey: And that We may make of thee a sign unto the people, Look further at the bones, how We bring them together and clothe them with flesh." When this was shown clearly to him, he said: "I know that Allah hath power over all things." (Surah Baqarah 2:259)

Did not Allah keep Prophet Yunus (alayhis salam) alive in the belly of a whale for a number of the days and that too in the dark, deep depths of the sea?

وَإِنَّ يُونُسَ لَمِنَ الْمُرْسَلِينَ... لَلْبَيْتِ فِي بَطْنِهِ إِلَى يَوْمِ يُبْعَثُونَ

And behold, Yunus was indeed one of Our messengers... He would have indeed

remained inside its belly (the fish) till the Day of Resurrection.

(Surah As-Saaffaat 37:139,144)

There are innumerable authentic Ahadith proving that Dajjāl will be given supernatuatural powers. If you deny this then tell us what will be the purpose of Dajjāl and how will be achieve this?

5.) This person, Tamim Dari, does not ask Dajjal when he was chained, who chained him, and for how long was he chained, who gives him food and drink. Is that not strange?

5.) Hazrat Tamīm Dāri radilallahu anhu was an intelligent person. He witnessed something unusual. He accepted it as an unusual occurrence. It is not prudent to ask usual normal questions in an abnormal situation.

In the incident of the youth in the cave when the representatives of the king visited the cave, he did not ask, who made you'll sleep? How long you'll slept? How were your'll nourished without water and food? It is understood that it was an abnormal situation. Normal questions are not asked in such a situation.

6.) How is it possible for Dajjal to know about the Prophet when he is in chains thousands of miles away? If anyone claims Allah informed him, will that not be a contradiction that ALLAH communicates with evil as well, then can that be true?

6.) The premise of your objection is, if Allah informed Dajjal about Rasulullah salallahu alayhi wasallam “thousands” of miles away, essentially Allah communicated with evil!

Is Shaytan not the epitome and peak of evil? Yet communication of Allah with evil Shaytan is clearly in the Qur’ān.

قَالَ فَاحْزُجْ مِنْهَا فَإِنَّكَ رَجِيمٌ () وَإِنَّ عَلَيْكَ اللَّعْنَةَ إِلَى يَوْمِ الدِّينِ () قَالَ رَبِّ فَأَنْظِرْنِي إِلَى يَوْمِ يُبْعَثُونَ () قَالَ فَإِنَّكَ
مِنَ الْمُنْظَرِينَ

(Allah) said: "Then get thee out from here; for thou art rejected, accursed." And the curse shall be on thee till the day of Judgment." (Iblis) said: "O my Lord! give me then respite till the Day the (dead) are raised." (Allah) said: "Respite is granted thee. (Qur'ān Surah Hujr 15:34-39)

A little knowledge of The Qur'ān would have guided you to this!

If your objection is based on Dajjal being “thousands” of miles away, how could he know about Rasulullah salallahu alayhi wasallam.

In your second objection, you faithfully refer to scientific facts. You seem to have faith in technology. If it is impossible for Dajjal to know about Rasulullah salallahu alayhi wasallam thousands of miles away, how is it possible for birds and insects to merely sense a seismic earthquake whereas the distance between the crust of the earth and a flying bird is literally more than thousands of miles apart!

To be more contemporary, how is it that a military send drones to Libya and mann everything live from thousands of miles away? How does one receive live information of what is happening in Libya or for that matter in the furthest part of the globe? Is the supernatural powers given to Dajjal, a human being, any lesser than the power of detection in a lifeless drone! Ponder!

In conclusion will you dispute Shaitan having the virtue of Ayatul Kursi and informing Abu Huraira radiallahu anhul! Who informed Shaytan of this? It would not be surprising if you reject this Hadith as well! Is Shaytan not an evil like Dajjal. Who told Shaytan about Ayatul Kursi and its virtues?

7.) The only acceptable answer is that this so called hadith is false.

7.) Without studying hadith and becoming an expert in it, one cannot declare a hadith to be false. It's like someone denying the existence of other planets besides Earth because they have not had the opportunity to see them through a telescope. Just because it's out of our "field of vision" doesn't mean others have not put in the hard and dedicated work to verify it.

What is the premise of this conclusion? "The authenticity of a hadith is judged based on ones intellect". This is very dangerous. This is also what led to the spiralling fall of the Shaitaan. He used his limited intellect to question the clear order of Allah. Here too, the hadith is authentically proven. If a hadith is authenticated by such illustrious specialists such as Imam Muslim who spent his life dedicated to this field and was terrified at the thought of attributing something falsely to the Prophet *salallahu alayhi wasallam* as all our pious muhadditheen were then we will only be ruining our Hereafter by rejecting authentic hadith. This hadith is authentic because....

a.) It has been rated as an authentic hadith by Imam Muslim (rahmatullahi alayhi).

b.) It has been rated as an authentic hadith by Imam Tirmidhi (rahmatullahi alayhi) in his collection under the “Book of Trials”, hadith #2253 under the title “Chapter of the Hadith of Tamim Al-Dari about the Dajjal.”

c.) View of Master Muhaddith Imam Hafiz ibn Hajar Al-Asqalani (rahmatullahi alayhi):

The master muhaddith, Imam Ibn Hajar Al-Asqalani who had the privilege of writing the widely acclaimed commentary on Imam Bukhari's Sahih has written in his monumental work “Fath Al-Bari” that this hadith has been narrated by a number of different Companions in addition to Fatimah bint Qays such as Abu Huraira, Mother of the Believers A'isha and Jabir (May Allah be pleased with all of them) and it is not an isolated hadith.⁴

d.) View of Master Muhaddith Hafiz ibn Abdul Barr (rahmatullahi alayhi):

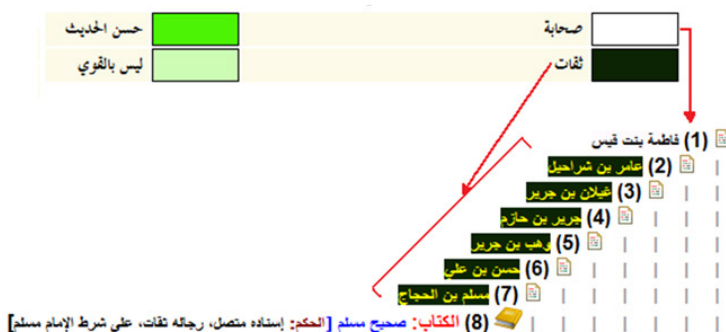
A scholar of such encyclopedic knowledge that he wrote a book listing every single person who had every met our beloved Prophet *salallahu alayhi wasallam*. He wrote in his book “Al-Istidhkar” that the narrations that come to us from Fatimah bint Qays (*radiyallahu anha*) through the

⁴ وقد توهم بعضهم انه غريب فرد وليس كذلك فقد رواه مع فاطمة بنت قيس أبو هريرة وعائشة وجابر اما أبو هريرة فأخرجه احمد من رواية عامر الشعبي عن المحرز بن أبي هريرة عن أبيه بطوله وأخرجه أبو داود مختصرا وابن ماجة عقب رواية الشعبي عن فاطمة قال الشعبي فلقيت المحرز فذكره وأخرجه أبو يعلى

من وجه آخر عن أبي هريرة (فتح الباري شرح صحيح البخاري، ١٣ / ٣٢٨، دار المعرفة)

Tabi'ee Imam Aamir ibn Sharaheel Al-Sha'bi (rahmatullahi alayhi) are established and authentic.⁵

e.) Looking at the narrators of the chain of this hadith we find that the muhadditheen have accorded all the narrators as “*thiqa*” which means “reliable/trustworthy” in narrating this hadith from each other until the chain reaches the Sahabiyah Fatimah bint Qays (radiyallahu anha). Please kindly see attached chart below for details:



⁵ وفي حديث الشعبي عن فاطمة بنت قيس حديث الجساسة في صفة الدجال أعظم إنسان رأيته خلقا وأشدّه وثاقا وفي حديث الزهري عن أبي سلمة عن فاطمة بنت قيس في ذلك فإذا رجل يجر

شعره مسلسل في

الأغلال ينزو فيما بين السماء والأرض وهذه كلها آثار ثابتة صحاح من حجة الإسناد والنقل

(الاستدكار ، باب ما جاء في صفة عيسى بن مريم عليه السلام والدجال: ٨ / ٣٣٣ دار الكتب

العلمية)

Ijarah financing

Q: I had taken a loan amount of Rs. 350,000/- from an individual for construction of our home. My home value in local market is about Rs. 800,000/- Now I want to pay the full amount of loan Rs. 350,000/- immediately to that individual through any Islamic bank, and then I will pay to the bank in monthly installment. What is the criteria in Islamic banking for this kind of problem, is any solution available in the sharia that I can pay the loan full amount to that individual through Islamic bank.

A: As understood from your query, you want a loan the amount of Rs 350,000 from an Islamic Bank and you will pay back the loan to the bank in monthly installments. The concept of Ijarah can be applied to achieve this.

The method of this is in step processes are thus:

1. The client sells a percentage of his house equivalent to Rs. 350,000 to the Bank, let say 40%. Now the Bank and the client are joint partners in the ownership of the house. The client owns 60% of the house and the Bank owns 40%.
2. Thereafter the Bank can charge the client rent for the usage of the Bank's portion of the house. A monthly rent can be fixed by the mutual agreement of the Bank and the client in regards occupancy of the 40% owned by the Bank.
3. Thereafter the portion of the Banks ownership can be divided into 4 units each representing 10% of ownership of

the house. The client can promise the bank that he will purchase one unit after ever three months, six months, year, etc. Accordingly, he will purchase another 10% of ownership of the house from the Bank by paying 1/10 of the price of the house. It will reduce the share of the Bank to 30% and increase his share to 70%. Consequently, the monthly rent will also decrease since the portion of the Bank is less now. This process will continue until the client becomes the sole owner of the house again. This method allows the client to regain full ownership of the house and allows the Bank to receive a profit upon their original Rs. 350,000.

The laws of Ijaarah should be kept in mind.

Q: I am always worried about paying debts. What is the solution?

A: It is narrated on the authority of Abu Saeed Khudri radiallahu anhu that a man said, “Oh Messenger of Allah, Worries and Debts have overcome me”.

Nabi sallahu alayhi wasallam said “Should I not teach you a Dua, if you say it, Allah will remove your worries and fulfill your debts.” The man said, “Yes”.

Nabi sallahu alayhi wasallam then said, “Say when you awake in the morning and at evening:

اللَّهُمَّ إِنِّي أَعُوذُ بِكَ مِنَ الْهَمِّ وَالْحُزْنِ
وَأَعُوذُ بِكَ مِنَ الْعَجْزِ وَالْكَسَلِ

وَأَعُوذُ بِكَ مِنَ الْبُخْلِ وَالْجُبْنِ
وَأَعُوذُ بِكَ مِنْ غَلَبَةِ الدَّيْنِ وَقَهْرِ الرِّجَالِ

Oh Allah I seek your protection from grief, and I seek your protection from incapability and laziness and I seek your protection from miserliness and cowardice, and I seek your protection from being overpowered with debts and being overpowered by man.

The man said, "I made this dua, then Allah removed my grief and fulfilled my debts"

(Mishkaat Pg 215)

Warranties on Appliances

Q: My question is regarding warranties on appliances are we as Muslims allowed to take out warranties on appliances e.g. I bought a vacuum cleaner which initially came with a two year guarantee after the guarantee expires I have the option to take out a further 3 year warranty, it is my understanding that most warranties today are premium based, similarly another appliance I have, offer the same warranty under the same conditions, in most high street outlets they use the same insurance company(Domestic and General) for all their products and they use this to their advantage as they set the cost of a unwarranted appliance very high so as to entice you to take up a extended warranty when purchasing the appliance - this is a big problem for Muslims in the uk as many people feel they have no option but to take up this 'offer' not realising whether it is permissible under the rules of Islamic Sharia - I have not purchased any extended warranties because I am doubtful as to whether this is permissible. I am deeply concerned because many Muslims

take out 3/5 year warranties out not realizing the warranty could or is haram!

A: It is permissible to take out a warranty at the time of sale. For example, if an appliance came with a two year warranty, it will be permissible to buy that appliance. Similarly, if an appliance comes with a basic one year warranty, but the company extends the warranty to 5 years if an additional sum of £20 is paid, then too it will be permissible to buy that appliance, on condition that the extension of the warranty was done during the sale. The extra £20 will be added on to the price of the appliance, and the total will be regarded as the cost of the appliance.

Jadid Fiqhi Masā'il Vol:1 Pg:387 (Kutub Khana Na'eemiyah)

Taqrir-e-Tirmidhi Vol:1 Pg:108/9 (Memon Islamic Publishers)

However, if the extension of the warranty is done after the sale, or it is done in a separate transaction, other than the sale, then the taking out of such a warranty will not be permissible, as the extra amount paid cannot be regarded as the cost of the appliance. The extra amount in this case is in lieu of the service which may or may not be provided. The Islamic scholars have explained that such a transaction will be termed as بيع الغرر (*bai 'ul gharar*), and Nabi (Sallallahu Alaihi Wasallam) has forbidden baiul gharar, as understood from the hadith below:

نهى رسول الله صلى الله عليه وسلم عن بيع الغرر

Jami' Al Tirmizi Vol:1 Pg:233 (H.M. Sa'eed Company)

Taqrir-e-Tirmizi Vol:1 Pg:99 (Memon Islamic Publishers)

Reminder of Salah Makes my husband angry!

Q: My husband is loving and caring, but when it comes to the topic of salah he intentionally neglects it. And if I keep on advising him on salah and remind him he get angry about it.

He feels that I am trying to control him and tells that he knows all those things and am not needed to tell it again and again. I am keeping on asking dua to make him a good Muslim, who is regular in his prayers. But I feel a bit scared of keeping on advising him on prayers because at the end it turns into an argument. Same issue comes when it comes to music. And he is so addicted to it. Can you please advise me how to bring him into the track of prayer and please do ask dua to make love in his heart on salah.

A: Jazakillah for writing to us requesting some help. Please do forgive me for the delay in responding to your query.

Sister, you have been correct in trying to help your husband to make his connection with the deen of Allah Ta'ala. I empathise with you in this situation as it must be painful and difficult for you to remain silent when your husband does not turn to His Creator in gratitude. Since you say that he becomes angry, have you thought of other ways in which to encourage him to set himself free from the trap of shaitaan?

I am sure you realise that he is very much a victim of his own nafs and under shaitaan's control. As a wife, you feel it

is our duty to help him to change. Allow me to make a few suggestions. If you have a receiver, turn on the adhaan so that he hears it every time he is at home. (At the same time, don't tell him anything.)

You could perhaps start playing Surah Yaseen early in the morning after fajr salaah so that he can hear it. Make a point of turning on (a C.D.) "Para a day" from the Quran in his presence. Insha'Allah, listening to the Quran may soften his heart.

Channel Islam and Radio Islam are beamed all over the world via satellite radio and via audio streaming from South Africa. Hundreds of people from all over the world write in to say how their lives have changed through listening to these radio stations. Insha'Allah, it will have the same effect on him in time. Make a point of collecting literature on Islam , salaah, love of Allah Ta'ala and even from revert Muslims and leave it at strategic places in the house so that he reads it. Make a point of remaining silent and do not make any comments or suggestions even if he makes any negative comments. Make sure you read the literature yourself and encourage your family to do so also. If possible, start madrassa classes in your home. Increase your zikr, istigfar and duas. Offer a small amount of charity on your husband's behalf and do remain patient with him Try to welcome him home every day with a smile and Insha'Allah your duas will be accepted. Make sure your children and the rest of the family are punctual with their salaah too.

May Allah Ta'ala grant all of us the tawfeeq to be obedient

to His commandments and to be steadfast with our salaah always. May He also make our salaah a means of salvation from the punishment of the kabr and the aagirah, ameen. You may write again if you wish to do so.

Are you troubling your wife or is she?!

Q: My question relates to the Husband - Wife relationship and is as follows:

I am married for 30 years. Neither I, nor my wife have had extra marital relationships. Our relationship Alhamdulillah began with and remained in Nikaah. My concern is what I perceive to be an "exaggerated sense of modesty" on the part of my wife. From the onset of our marriage, love and sex were things "that she would submit to" rather than a mutually enjoyable experience. I overlooked this on an ongoing basis in the hope and belief that Allah SWT will reward me in other ways. I have also overlooked and accepted many other aspects of her in the same belief. Alhamdulillah, we have six Masha Allah children from this.

I am now 60. I am rationed sex as she deems fit. A third of the month she would have her menses, a third of the month she would have some "ailment" and the remaining third she would not be in the mood for love. Sex is just that - a means of release with no reciprocal love. Our lives revolve around the upbringing of our children.

I have raised the matter with her parents - they merely brush me aside telling me I am very lucky to have a wife like

her. She donned the Niquaab when I expressed my intention to marry a Niquaabi as I was intrigued by them. I have even asked her parents to take her for counselling. I have never uttered Talaq even when provoked by her mother. She is living in a comfort zone - knowing that I will not divorce her out of fear of displeasing Allah SWT and the fact that a second wife carries a stigma in our society. I cannot kiss her without being pushed away. By the way, we live in a comfortable home with en suite facilities and good privacy.

The same goes for sex - she has to show that I am in need and she is merely submitting. We cannot stray from the Missionary position. With age I know that I may weaken and need more of my wife's help. I have thought of seeking assistance but have shied away in the knowledge (my limited knowledge) that a second marriage is the only way out. Maybe the competition would spur her to reflect on her behaviour? My reason for not threading this path to be frank is the Quranic injunction to treat your wives equally.

How do I treat two wives equally when one is the mother of my four children while the other is "unequal"? How do you find a moral and at the same time Loving wife? How do you find Psychological compatibility without straying from the boundaries of Islam? Maybe I am totally wrong in my thinking and this is why I raise these questions in this forum.

A: Jazakallah for your email. We respect your request for anonymity on this forum. Should we post this query on site for the benefit of people experiencing similar problems as

you, we will change the main characteristics of the query to maintain anonymity.

Brother, you state you are an introvert. You are married for 30 years, and now you are 60. You have difficulty with your wife's "exaggerated sense of modesty". She simply submits rather than "it" being mutual. "It's" not a one sided thing. You have brought up the issue with your wife and inlaws. The matter is still the same.

You have suggested taking a second wife but also have concerns. Your concerns are valid. Furthermore, should you take another wife, what guarantee you have that you get what you want? The issues you have raised can only be experienced during intimacy. There is no measure to determine how a woman is going to perform. Furthermore, if she does, for how long? Would you want to enter such a gamble? You may be the unique and fortunate one to pick the right "toy" from the "lucky packet"! Then too the apprehension of her not maintaining her active performance is still there. It will be a real nightmare for you if you picked a "wrong" or "cheap" toy in the lucky packet. You will have so much to lose after 30 years of investing in a wife and 4 beautiful children. The pain and frustration you will experience in pursuit of your intimate needs will make your needs insignificant and in fact bitter. You will then realize you were better off as you were with someone merely submitting **even** for a **third** of the month. In any event that too was going to completely die off. As one person put it- I came out from the pot and directly into the frying pan. Surely that is not what you need at this age.

Brother, you are not alone in this quagmire. This is a common problem. Apply the rule of اهلون البليتين (lesser of the two evils). Non-cooperation of the wife is unfortunate if not bad, but the challenges of a second wife are huge if not greater evil.

The only way to overcome your difficulty is to condition your mind to accept your wife as she is. Allah chose her for you. Make do with her as she is and be content. Focus of the positives in her and overlook the negatives.

It is precisely for this reason Allah Taala said:

عَسَىٰ أَنْ تَكْرَهُوا شَيْئًا وَهُوَ خَيْرٌ لَّكُمْ

Maybe you dislike something of her whereas that is better for you.

(Qur'an 2:216)

When you experience the pain of rejection or being pushed away from her, it is definitely not in vain. You approached her for you haqq but was denied or she simply submitted. Surely not as you wanted.

What can you do about it? How do you give vent to your anger and frustration. In most instances, if you do, the problem turns out to be bigger and mightier. It is such a private issue that you cannot easily talk to anyone about it.

The pain you experience with the very limited avenues to give vent to your pain is enormously rewarding in the court of Allah. A husband who overlooks this aspect of his wife for the pleasure Allah is rewarded with Shahadah. A

mujahid goes in the path of Allah and bears physical and emotional pain for the pleasure of Allah. There is nothing he can do to give vent to his pain, It is for the pleasure of Allah. He actually experiences the halawat and sweetness of Ieman in this pain, This sweetness has a totally different taste. Similarly, if you bear the emotional pain of not fulfilling your base desires for the pleasure of Allah, you too will be considered a mujahid. During that emotional pain, be patient, turn your heart to Allah and experience the sweetness of Ieman. The enjoyment of that feeling surpass the physical enjoyment of intimacy.

While you may be focusing on what she is not, she too may be focusing on what you are! Put yourself in her shoe. It is possible she maybe put off due to your approach and attitude at some time of the other. Women are sensitive and to them physical closeness is not as important and invigorating as emotional closeness that comes with the right approach and conduct. It is also possible she is going through hormonal imbalance due to her age. Shukr she is letting you have her for even 1/3. Generally when men experience physical imbalance, they can't even give that much. How is it expected of a woman to do in such a situation? A man too must understand and contain himself.

You state you are 60 and with age you will weaken and you may need wife's assistance. As that time, the tables could turn around. She may be the one that will get frustrated and complain about you. How would you expect her to react? She will respond to your weaknesses as you responded to her weaknesses. It's just a matter of time. Now it's your turn

to tolerate. Tomorrow it'll be her turn. If you tolerate her faithfully, it is hoped she will reciprocate.

Make shukr your wife at least submits to you. The fact that she does not deny you all the time is proof enough of her sensitivity to you. She is fully aware you are a man and you have your needs. Your problem is you need to stray from the missionary position of merely releasing and want her to reciprocate.

You imply that your wife is loyal but not loving. Why do you narrow your concept of love to physical love? There are so many other avenues of love expressed by your wife. She bore you six children. She bore all physical burden of pregnancy by herself. She surely did it for you as she could have avoided pregnancy with the various options available to her. She is a means of multiplying your avenues of loves six times more.

If you overlooked your wife ever since for her mere missionary response for the pleasure of Allah, then there is all more reason for you to adopt that attitude now. A woman's body and reaction is never same after six pregnancies. Her body is exerted to the maximum especially with all the demands and challenges of raising 6 children and a "wanting" husband.

Now is the real test of your intention to overlook her for the pleasure of Allah. It is that time of your life where physical love ought to be transformed to emotional love as Allah Himself says: "مُودَّةً وَرَحْمَةً" (love and mercy).

In conclusion, I wish to point out that in everything of our life, Allah nurtures us. Allah is our Rabb. Rabb means to nurture. Allah wants to make us near and dear to Him. He puts challenges in our lives and when we feel bitter with our closest ones, we realize that is not the love to be trusted.

We turn away from all such temporary forms of love and pleasure and attach ourselves to Allah, the ultimate love.

This is how, we as believers think and see the different challenges of life. When we realize this point and note our gradual closeness to Allah, we accept all pain as the reward of the closeness to Allah is eternal and everlasting. It is unparalleled love, not just physical, not just emotional. It is real. It is only tasted with the heart of strong Iman!

Have mercy for your wife. She too will have mercy for you. Allah's reward to you will be His mercy.

We commend you for your objective thinking and your courage to raise this issue which will be a source of guidance for many people like you and a solace for many women. Your question was the means for this guidance.

Consulting Work based on commission

Q: I run a consulting business and recently met a woman who works for a govt department. She informs me that she is starting her own business in the same field as mine and has managed to secure some contracts and work from clients that she would like me to assist her with – this would

mean that she would sub-contract the work out to me.

In addition, the dept she works in has a lot of work - she can secure this work but cannot directly do the work through her company as this is a conflict of interest. She approached me and said that she will send the work to me, (I execute it) but then I should pay her a commission of 10%. Would an agreement of this nature be deemed haraam? Please can you advise.

A: Our understanding of the situation is:

- The woman in reference works for a government department.
- She will open a consulting business as you have.
- It appears she can secure work from her employment at the government department and refer the work to you.
- She cannot offer the service as that is conflict of interest between her employment and business.
- She will sub contract the work to you at a 10% commission basis.

If our understanding of the issue is correct and reflects the reality of the matter, then our observations are:

- If it is a conflict of interest for her to service the clients directly and her employment does not permit that, it is also a conflict of interest for her to refer clients to you and get a “kick back” of 10%.
- There is no contract between her and the clients. The issue of subcontracting to you does not feature. She simply refers clients to you.

- Hence, the only obvious outcome is she does you a favour and refers clients to you and expects a monetary favour in return. This is clearly bribery and not permissible. If there is a bonafide contract between the woman and the clients, then clarify in detail.

Percentage Fee from the Bank

Q: We currently have a an account with one of our suppliers, Engen Petroleum for monthly fuel charges for our delivery vehicles.

Our Petrol Station requires a guarantee say R120,000 for this credit facility. A Bank is willing to guarantee this debt as we have an Islamic finance account with their Bank. The Bank also requires no additional security for this guarantee facility, which they will offer us.

However they are charging us an establishment fee of 1.24% and the same charge every 6 months thereafter. This facility may be terminated upon three months notice. I was advised by the bank officer that this is a bank charge.

Will this charge be acceptable in terms of the Shariah and is there any element of RIBA in this?

Your advice will be greatly appreciated. May Allah reward you, Aameen.

A: The 1.24% charge by the Bank is in lieu of the surety. Such a charge is not valid. Furthermore, if the Bank pays the debt, you will have to repay the debt with interest.

Therefore, this arrangement is not Shariah Compliant. We do not understand how this is a bank charge. What service does the bank provide to justify this charge?

Calculating Labour Price

Q: How does one calculate a labour price according to shariah.

Let's say I fix cars, what I would charge for fixing an old car wouldn't be anywhere near to what I would charge for say a porche. Would this be permissible?

A: Labour pricing will be according to the general market rate for the service provided; service quality (professionalism), turn-around time (efficiency), intricacy of the work, and the other basic factors will effect the pricing structure. Therefore, charges levied for servicing a Porche in relation to an old care could be higher when influenced by these factors.

Furthermore, as a Muslim, the character and ahadith of Rasulullah (Sallallahu Alayhi Wasallam) exhorts us to consider one more factor in the pricing, and that is to be a well wisher for the consumer, i.e. looking into his best interest also. Greed should never overtake our emotions and pockets, nor should we be opportunists waiting to capitalize on the consumer's desperation for the work or his naivety about the pricing. Well wishing and fairness should be our guide and in this way we will certainly secure barakah (the happiness and blessing of Allah) in our earnings.

Renting out with conditions

Q: I will appreciate it if you could please assist me with checking if the following arrangement is correct according to our Shariah :

1. I own a townhouse which I had bought to earn rental income.

2. Because of various factors, I find it convenient to enter into an arrangement with Zaid on the following terms:

2.1 Zaid will rent the townhouse from me for a fixed amount of R2,500 per month for a negotiated period.

2.2 We will enter into a standard lease agreement as commonly used for residential purposes.

2.3 This lease agreement will stipulate that Zaid is additionally responsible for:

2.3.1 All repairs and maintenance excluding repairs for damages caused by fire or natural occurrences like floods, earthquakes etc.

2.3.2 All levies, special levies and rates and taxes.

2.4 At the end of the lease term, Zaid will return the townhouse to me free of defects, fair wear and tear excluded.

2.5 Should we wish to continue or cancel this arrangement, then each party will give the other 120 days notice.

3. Zaid has the expertise to find tenants, administer the rental collection, upkeep the premises and liaise with the body corporate etc as a result of which I agree that he be

allowed to on let the premises for whatever rate he deems fit. I am aware that in the complex, these units are let out for about R5,000. By Zaid doing so, I am aware that after paying me the monthly rental of R2,500 as well as paying the levies etc, he will be left with a surplus. I feel he is entitled to this surplus as it saves me a lot of inconvenience.

4. Zaid does not want to enter into the normal rental collection arrangement as used by estate agents where they collect the rent on your behalf, pay your accounts, deduct their negotiated commission and pay over the balance to you.

In consideration of the above proposed arrangement with Zaid, I will appreciate it if you could confirm whether it is Shariah compliant or not.

If not, how could it be structured so as to arrive at the same result where Zaid pays me R2,500 per month, and additionally pays all the amounts as per paragraph 2.3, thereafter keeping the balance for himself ?

A: The conditions stipulated in 2.3.1 and 2.3.2 of your questionnaire that Zaid will be additionally responsible for all repairs and maintenance and all levies, special levies and rates and taxes are not Shariah Compliant.

In principle the landlord is entitled to the rental in lieu of the tenant benefiting from the usufruct of the property.⁶

⁶ (هي)...(تَمْلِيْكُ نَفْع)...(بِعَوْضٍ)(الدر المختار وحاشية ابن عابدين (رد المختار) ٤ / ٦)

The conditions in 2.3.1 and 2.3.2 are contrary to the nature of Ijarah.

The landlord being the owner of the property is responsible for ownership expenses, repairs, maintenance, levies, rates and taxes. If ownership expenses are put upon the tenant, that will render the ijarah invalid.

Consider the following express reference.

تَسُدُّ الإِجَارَةُ بِالشَّرْطِ الْمُخَالَفَةِ لِمَقْتَضَى الْعَقْدِ كُلُّ مَا أَفْسَدَ الْبَيْعَ مِمَّا مَرَّ (يُفْسِدُهَا)... وَمَرَمَةُ الدَّارِ ... أَوْ مُؤْتَةً... (الدر المختار وحاشية ابن عابدين (رد المختار) ٦ / ٤٦)

Repairs and maintenance on the tenant is included in “مَرَمَةُ الدَّارِ” which invalidates the Ijarah.

All levies and rates and taxes on the tenant are included in “مُؤْتَةً” which also invalidates the Ijarah.

This is further explained in much detail in the following reference.

(قَوْلُهُ وَمَرَمَةُ الدَّارِ أَوْ مَعَارِمُهَا) قَالَ فِي الْبَحْرِ: وَفِي الْخُلَاصَةِ مَعَرِّيًا إِلَى الْأَصْلِ: لَوْ اسْتَأْجَرَ ذَارًا عَلَى أَنْ يَغْمُرَهَا وَيُعْطِيَ نَوَائِبَهَا تَفْسُدُ؛ لِأَنَّهُ شَرَطَ مُخَالَفَ لِمَقْتَضَى الْعَقْدِ اهـ (الدر المختار وحاشية ابن عابدين (رد المختار) ٦ / ٤٧)

The alternative is as mentioned by you in point 4, but Zaid is not comfortable with that.

There is no way that you as a landlord can hire a property and be hassle free. One possible consideration could be that Zaid hires the property from you for R1500. He upgrades

the property with your permission and sublets it at a higher rental.

The risk is Zaid could still refuse voluntary repairs and maintenance and demand that such expenses be borne by you.

Fiqh of Renting out Property

Q: What is the Shariah ruling for a Muslim to hire his property to a non-Muslim in the following situations:

- For residential purposes. A devout Christian or Hindu will pray in the house thereby committing kufr and shirk.
- General Purposes
- Pick and Pay, Checkers, Spar etc. These business houses also sell haram meat for example pork and meat not slaughtered according to Shari rights of Zabah as well. Alcoholic beverages are also sold.
- Bank. It is well known that a bank deals in interest and other non-Shariah compliant deals.
- Bar. Intoxicants will be sold and the rentals could be from the proceeds of those sales.
- At times, a shopping mall is for sale and a Muslim wishes to buy the mall. However the existing tenants are a bank, haram food outlet etc. Can a Muslim buy such a shopping mall knowing that he will be bound by the lease agreement with such tenants.
- A group of Muslims businessmen wish to put up a mall but they are required by law to have a bank and a food outlet as their tenants. It is not easy to turn down such

tenants who normally pay a good rental especially during an economic crisis.

We understand that non-Muslims are not bound by Shariah Laws. Similarly, Muslims are permitted to deal with non-Muslims. What is the Shariah ruling on all these issues? Could you explain to us the broad guidelines on these issues.

Your advise and observation will also be appreciated.

A: The Fugaha have considered the different situations of Muslims dealing with non-Muslims and accordingly issued decrees based on the principles that govern such issues. For example in Kufa Muslims interacted with non-Muslims and used to do dealings with them. The issue of a Muslim hiring his property to a non-Muslim selling wine is discussed. This analogy will be the core of our discussion

According to Imam Abu Hanīfa ramatullahi alayh, it is permissible for a Muslim to hire his property to a non-Muslim who sells wine. In contrast to this view, the view of Imam Abu Yusuf and Imam Muhammad rahmatullah alayhima, the two famous students of Imam Abu Hanifa rahmatullah alayh is that it is not permissible. This is the view of the other three schools of thought.⁷

⁷ إذا استأجر الذي من المسلم بيتا ليبيع فيه الخمر جاز عند أبي حنيفة رحمه الله تعالى خلافا لها ، كذا في المضمرات (الفتاوى الهندية: ٤/٤٤٩ ، مكتبة رشيدية)

The ideal ruling will be that it is not permissible for a Muslim to hire his property to a non-Muslim to sell wine as this is “إعانة على المعصية”.

Allah Ta’ala says,

وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ

And do not assist in sin

(Qur'an 5:2)

However, in view of the many challenges a Muslim faces in the economic world, the prudence of the view of Imam Abu Hanīfa rahmatullah alayhi is clearly demonstrated. According to Imam Abu Hanifa rahmatullah alayh it is permissible for a Muslim to hire his property to a non-Muslim who sells liquor – the rentals received will be halal.

The rationale behind this ruling is that the landlord has hired the usufruct of his property to the non-Muslim and receiving a benefit in lieu of the usufruct. He does not have anything to do with the activity of the tenant. The activities of the tenant are independent of the landlord. He is solely responsible for what he does.⁸

⁸ في الدر المختار: (و) جاز (إجارة بيت بسواد الكوفة) أي قراها (لا يغيرها على الأصح) وأما الأمصار وقرى غير الكوفة فلا يمكنون لظهور شعار الإسلام فيها ، وخص سواد الكوفة لأن غالب أهلها أهل الذمة (ليتخذ بيت نار أو كنيسة أو بيعة أو يباع فيه الخمر) وقالوا لا ينبغي ذلك لأنه إعانة على المعصية وبه قالت الثلاثة ، زيلي

Accordingly, a Muslim can hire his property to non-Muslim business, like Pick & Pay, a non-Muslim food outlet, a Bank etc.

When we research the views of our Akabireen on this issue, we observe that they also have considered the view of Imam Abu Hanifa rahmatullah alayh and created a leeway for following his view.

Hereunder are some fatawa:

وقال ابن عابدين رحمه الله: (قوله وجاز إجارة بيت إلخ) هذا عنده أيضا لأن الإجارة على منفعة البيت ، ولهذا يجب الأجر بمجرد التسليم ، ولا معصية فيه وإنما المعصية بفعل المستأجر وهو مختار فينقطع نسبته عنه ، فصار كبيع الجارية ممن لا يستبرئها أو يأتئها من دبر وبيع الغلام من لوطي والدليل عليه أنه لو أجره للسكنى جاز وهو لا بد له من عبادته فيه اهـ زيلعي وعيني ومثله في النهاية والكفاية (رد المختار: ٣٩٢/٦، سعيد)

وفي تكملة البحر الرائق: قال رحمه الله: (وإجارة بيت ليتخذ بيت نار أو بيعة أو كنيسة أو يباع فيه خمر بالسواد) يعني جاز إجارة البيت لكافر ليتخذ معبدا أو بيت نار للمجوس أو يباع فيه خمر في السواد وهذا قول الإمام وقال: يكره كل ذلك لقوله تعالى { وتعاونوا على البر والتقوى ولا تعاونوا على الإثم والعدوان } وله أن الإجارة على منفعة البيت ولهذا تجب الأجرة بمجرد التسليم ولا معصية فيه وإنما المعصية بفعل المستأجر وهو مختار فيه فقطع نسبة ذلك إلى المؤجر وصار كبيع الجارية لمن لا يستبرئها أو يأتئها في دبرها أو يبيع الغلام ممن يلو ط به والدليل عليه أنه لو أجره للسكنى جاز ولا بد فيه من عبادته وإنما قيده بالسواد ؛ لأنهم لا يمكنون من ذلك في الأمصار ولا يمكنون من إظهار بيع الخمر والخنزير في الأمصار لظهور شعائر الإسلام فلا يعارض بظهور شعائر الكفر قالوا في هذا سواد الكوفة ؛ لأن غالب أهلها أهل ذمة ، وأما في غيرها فيها شعائر الإسلام ظاهرة فلا يمكنون فيها في الأصح (تكملة البحر الرائق: ٢٠٢/٨، سعيد)

بینک کے لئے مکان کرایہ پر دینا

۹۱۴۴ھ

سوال:- گزارش خدمت یہ ہے کہ از روئے شرع بینک کے لئے عمارت کرایہ پر دینا جائز ہے یا نہیں؟ اور کرایہ حلال ہوگا یا نہیں؟ اطلاعاً عرض ہے کہ بینک دو قسم کے ہوتے ہیں، ایک تو وہ جس میں اکثر حصہ سودی لین دین کا ہوتا ہے، اور کچھ دوسرے کا رو بار بھی ہوتے ہیں مگر کم، دوسرے وہ بینک جس میں اکثر کاروباری معاملات چلتے ہیں اور کچھ سودی لین دین بھی

اجازۃ صحیحہ

۱۴۷ھ

فتاویٰ محمودیہ جلد ۲۵..... ۲۵

یہ ہے، براہ کرم کرایہ کے سلسلہ میں دونوں قسم کے بینکوں کا حکم تحریر فرمائیں؟

الجواب حامداً ومصلیاً

امام اعظمؒ کے نزدیک عمارت کرایہ پر دینا درست ہے، مستاجر جس کام میں بھی استعمال کرے، وہ اس کا فعل ہے صاحبین کے نزدیک ناجائز کام کے لئے کرایہ پر دینا مکروہ و ممنوع ہے، کام مخلوط ہو تو غالب کا اعتبار ہوگا، پس دوسرے قسم کے بینک کے لئے بالاتفاق درست ہے، اور پہلی قسم کے بینک کے لئے عمارت کرایہ پر دینے میں امام صاحبؒ کے نزدیک گنجائش ہے، ”وہو الاوسع“ اور صاحبین کے نزدیک مکروہ و ممنوع ہے ”وہو الاورع“ حلال یا حرام حلال مخلوط روپیہ کرایہ میں لینا درست ہے، حرام یا غالب حرام مخلوط روپیہ لینا درست نہیں۔ فقط واللہ سبحانہ تعالیٰ اعلم

حررہ العبد محمود غفرلہ دارالعلوم دیوبند

۱۔ وجاز اجازۃ بیت لیتخذ بیت نار او کنسۃ اوبیعة اوبیاع فیہ الخمر وقال لا ینبغی ذلک الخ. در مختار علی الشامی زکریا ج ۹/ص ۵۶۳/مطبوعہ نعمانیہ ج ۵/ص ۲۵۱/کتاب الحظر والاباحۃ فصل فی البیع، المبسوط للسرخسی ص ۳۸/ج ۱۶/باب الاجارۃ الفاسدۃ، البحر کوئلہ ص ۲۰۲/ج ۸/فصل فی البیع کتاب الحظر والاباحۃ.
۲۔ مستفاد اکل الربا وکاسب الحرام اهدی الیہ اوافاضل لا یقبل ولا یاکل وان کان غالب ماله حلالاً لا یاس بقبول ھد یتہ الخ. عالمگیری ج ۵/ص ۳۴۳/کتاب الکراہیۃ الباب الثانی، خانیہ علی عبیدۃ ص ۴۰/ج ۳/کتاب الحظر والاباحۃ، مطبوعہ کوئلہ.

(Fatawa Mahmudiya: 25/146-147, Maktaba Mahmudiya)

Summarized translation:

Question:

What is the ruling on renting out property to a bank? Note that there are two types of banks: 1) a bank in which most transactions are interest based, although other permissible transactions also take place in it. 2) a bank in which most transactions that take place are permissible, although some interest based transactions also take place in it.

Answer:

According to Imam Abu Hanifa (R.A.) renting out the property is permissible. What the tenant uses the property for is his act (and responsibility, not the landlord's). According to the Sahibain (Imam Abu Yusuf and Imam Muhammad), renting out one's property for an impermissible act is makrooh and impermissible. If the act is mixed (i.e. the tenant will conduct both halal and haram activities in the property), then the majority will be taken into consideration (i.e. if the majority of the tenant's activities will be permissible then renting out the property to him will be permissible and if the majority of the tenant's activities will be impermissible then renting out the property to him will be impermissible). Therefore, renting out the property to the second type of bank (i.e. in which most transactions are permissible) is permissible unanimously. And renting out the property to the first type of bank (i.e. in which most transactions are impermissible) is permissible according to Imam Abu Hanifa – and this view is *am'sa'* (more accommodating) – whereas according to the Sahibain it is makrooh and impermissible – and this view is *am'ra'* (**more precautionary**).

شراب کی بھٹی کے واسطے اپنا مکان کرایہ پر دینے کا حکم | سوال :- ایک مسئلہ زیر بحث ہے، اور تکین نہیں ہوتی، حالانکہ بحر الرائق وغیرہ میں دیکھا گیا مگر جواب شافی نہ ملتا۔ صورت یہ ہے کہ ایک شخص نے جو مسلمان ہے اپنا مکان شراب کی بھٹی کیلئے کرایہ کو دیا، اور مکان کے کرایہ کی حیثیت انتہائی دور و پیہ، مگر شراب کی بھٹی کے واسطے جو دیا ہے تو مبلغ تیس روپیہ کرایہ وصول ہوتا ہے۔ اور پورے مسلمانوں کو بہت سخت تکلیف واقع ہوئی ہے۔ مولوی حامد رضا خان سے اس مسئلہ کیلئے بعض اشخاص نے رجوع کیا تو انہوں نے جائز کہہ دیا ہے، حالانکہ اس سے بہت شر پھیلنے کا احتمال ہے۔ چنانچہ دریافت طلب یہ امر ہے کہ اس مسئلہ کی اگر صورت جزئیہ حضور کی نظر سے گزری ہو تو تحریر فرمادیجئے وگرنہ قیاس اور حجاز و عدم حجاز پر دلیل بیان فرمادیجئے۔ وہ شخص دلیل پکڑتا ہے: صج اجابة الدور والحوائث بلا بیان ما یعمل فیہا، إلا أنه لا یسکن حداداً او قصاراً او طائفاً الا۔

محمد سرور خان
شہر بریلی۔ محلہ کوہاڑا
یرزائی پریس

الجواب واللہ الموفق للصواب

(و) جان اجارة بیت بسواد الکوفة ای کراھا لا یغیرھا علی الأصح وأما الا مصار وقری غیر الکوفة فلا یمکنون لظہور

الاجابة

۵۳۵

کتاب

شعار الاسلام فیہا۔ ومخص سواد الکوفة، لأن غالب أهلها أهل الذمة
یتخذ بیت نار أو بیعة أو بیاع فیہ الخمس۔ وقال: لا ینبغی ذلک، لأنه
إعانة علی المعصیة، وبہ قالت السلافة۔ زیلعی۔ درمختار مع الشامی ۳۵
یہ مکان جس محلہ میں ہے اگر اس میں غالب آبادی مسلمانوں کی ہے تو اس میں مکان
کو شراب کی بھٹی کیلئے کرایہ پر دینا اتفاقاً حرام ہے اور اگر اس محلہ میں غالب آبادی کفار
کی ہے، تو امام صاحب کے قول پر یہ اجارہ درست ہے۔ اور صاحبین اور ائمہ ثلاثہ
کے نزدیک اس وقت بھی حرام ہے۔ واللہ اعلم

حررہ الاحقر ظفر احمد عفا اللہ عنہ

۱۸ ذیقعدہ ۱۳۳۲ھ

از تھانہ بھون

(Imdaadul Ahkaam: 3/534-535, Maktaba Darul Ulum Karachi)

In the question above, Hazrat Maulana Zafar Ahmed sahib was asked about giving one's property on rent for liquor brewery. The answer that Hazrat Maulana Zafar Ahmed sahib gave was that if the majority of the inhabitants of the locality are Muslims then doing so is not permissible unanimously. And if the majority of the inhabitants of the locality are non-Muslims then it is permissible according to Imam Abu Hanifa and not permissible according to the Sahibain and the other three Imams.

سوال ۱۲۲۵) شراب یا تازی کے لئے گاڑی کرایہ پر لے جانا کسی مسلمان گاڑی والے کو درست ہے یا نہیں۔ اسی طرح کسی جگہ ہندو لوگوں کو کسی مندر وغیرہ پر پہنچانے کے لئے گاڑی کرایہ پر لے جانا جائز ہے یا نہیں۔ اسی طرح کسی عرس کے میلے پر لوگوں کو پہنچانے کے لئے گاڑی کرایہ پر لے جانا جائز ہے یا نہیں؟

عزیر الفتاویٰ ۲۳۸ کتاب الاحکام
(الجواب) امام ابو حنیفہؒ کا مذہب ان امور میں بجا ہے اور اجرت حلال ہے اور صاحبین رحمہما اللہ فرماتے ہیں کہ مکروہ ہے۔ بسبب اعانت علی المعصیت کے۔ فی الدر المختار و جاز تعمیر کنیسی و حمل ذمی بنفسه او بدایتہ باجر الخ وفي الشامي قال الزيلعي وهذا عنده وقال هو يكره الخ الدر المختار ايضا و جاز اجارة بيت بسواد الكوفة لمن يتخذہ بيت نار او كنيسة او بيعۃ وفيه التيمم وقال لا ينبغي ذلك لانه اعانة على المعصية وبه قالت الثلاثة الخ. والله تعالى اعلم

(Azizul Fatawa: pg 637-638, Darul Isha'at)

In the question above, Hazrat Mufti Azizur Rahman sahib was asked about giving one's car on rent for transporting liquor and for transporting Hindu people to a temple. Mufti Azizur Rahman sahib responded by saying that the view of

Imam Abu Hanifa in these matters is that of permissibility, whereas the view of the Sahibain is that of impermissibility.

It is clear from the fatawa of the three quoted great personalities that they considered the harsh economic challenges faced by Muslims and expressed a leeway to hire one's property to them even though the activities of the business are not Shariah compliant.

If a Muslim landlord exercises restraint and avoids hiring his property to non-Muslims engaging in un-islamic activities and bears a loss or accepts a lower rental, that is his strength of Imaan and courage.

If a Muslim landlord is in financial constraints or in constraints with the law, there is a leeway for him to accept such tenants. Obviously, hiring ones property to such tenants will be makrooh (disliked) as there is a degree of assisting in sin. However, that karahiyyah (dislikeness) will fall away if the business of the tenant is not completely haram, and the major source of income is from halal, then he can use the income for himself.

It is advisable for him to dispense of the % of the haram portion of the rental by giving that amount in sadaqa. That amount may also be used to pay unjust taxes. For example, if the tenant is Pick n Pay or Spar or Checkers and the proceeds of the sales of liquor or haram meat is 5% and the rental is R50,000, then 5% of the rental , i.e. R2,500, should be ideally disposed off in Sadaqah or used to offset unjust taxes.

If the business is completely haram, for example, a disco, a night club etc, or the major source of the business is haram according to Shariah standards, then it is not permissible to hire one's property to such tenants.

Fudiciary Interest, Usufructury interest and bare dominium

Q: Is it permissible to donate in one lifetime or bequeth in ones will, a fiduciary interest, usufructury interest or bare dominium?

A: We have studied Section 62 – Valuation of South African Tax Law. You specifically referred to fiduciary interest, usufructury interest and bare dominium.

A summary of our understanding on the issue of reference is:

A person offers the usufruct of his property to a person on condition that the usufruct is passed over to another person upon the death of the first person, the initial recipient of the usufruct of the property does not become the absolute owner of the property until the second person passes away in his lifetime. It is only then the first person becomes the absolute owner of the property.

According to Shariah, the concept of fiduciary and fideicommissary as explained in the law is not compatible with Shariah.

Essentially, the owner of the property offers the usufruct of the property with suspended ownership of the actual property. The fiduciary's ownership is suspended upon the fideicommissary's death.

Similarly, the fideicommissary's absolute ownership of the property is only upon the fiduciary's death.

According to Shariah when an item is offered as a gift, it must be complete and absolute and not suspended on any future event. Furthermore, in the example cited to explain the concept of fiduciary and fideicommissary, it appears that a close family member, (potential heir in Shariah) qualifies for this type of gifting.

This further compounds the problem as that is tantamount to making a bequest in favour of an heir which is clearly prohibited in Shariah.

The second issue is of the usufructuary interest and bare dominium. This has **some** basis in Shariah with some variation.

According to Shariah, it is permissible to make a bequest of a usufruct in ones will with two conditions:

- a. The bequest must not be in favour of an heir.
- b. The bequest must be within 1/3rd of the nett estate.

The example cited of the wife as a recipient of the usufruct will not be Shariah Compliant as she is an heir.

A bequest of usufruct for a non heir from within 1/3 of the nett estate for any period of time is valid. The bare

dominium will belong to the heirs and they will have control of the property upon the expiry of the bequest.

The above serves to merely broadly explain the issue and should not be taken as a conclusive explanation on the issue as in legal terms there is a difference between usufruct and habitatio.

وأما فيما تجوز الوصية بالخدمة والغلة، وفيما لا تجوز: ولو أوصى بخدمة عبده سنة بعينها لرجل بعينه وهو يخرج من ثلثه خدمه سنة وإن لم يخرج من ثلثه خدمه يوماً وللورثة يومين حتى يستكمل؛ لأن الوصية بخدمة العبد والعبد لا يخرج من ثلث ماله كالوصية برقية العبد؛ لأن الورثة يصيرون ممنوعين [عن العبد]^(٩) ما لم تمض مدة الوصية فوجب اعتبار الثلث والثلثين كما يعتبر متى حصلت الوصية بالرقبة فوجبت القسمة^(١٠) وقد تعذر قسمة عين العبد؛ لأنه لا يمكن أن يجعل ثلثا العبد للورثة والثلث للموصى له حتى يخدم الكل في يوم^(١١) واحد فوجبت القسمة بالتهايؤ بالأيام. ولو أوصى بسكنى داره سنة فإن^(١٢) كانت^(١٣) الدار تخرج من ثلثه^(١٤) سكنها سنة وإن لم تخرج واحتملت القسمة سكن ثلثها والورثة ثلثيها إلا أن يتهايؤوا سنة بعينها؛ لأن عين الدار مما يحتمل القسمة فأمكن قسمة العين كما أمكن قسمة السكنى بالتهايؤ فكان حق الموصى له قسمة العين حتى لا تزول يده عما أوصى به في نوبة الورثة، إلا إذا اتفقا على قسمة السكنى بالتهايؤ فحينئذ^(١٥) لهم ذلك.

Alfatāwa Alwahvalijjyyah Vol 5 Pg 401-2

Giftng of Residential Property

Q: Please explain/comment on the following:
1. What are the conditions for giftng of a residential

property to one of the children for it to be valid according to Shariah?

2. Is a “Deeds of Donation” acceptable in Shariah (the asset is not transferred immediately but at the time of death).

3. To avoid donations tax legal experts are advising that the testator bequeath the property to an heir in a Will. The argument is based on the testator’s *niyat* which is to donate it while he was alive.

4. A father wants his sons and daughters to inherit equally. He is being advised by legal experts to put his assets in a Special Trust making his children equal beneficiaries. Is this permissible by Shariah?

A:

1) The gifting of a residential property will be valid in Shariah with the following conditions.

- a) Offer-the owner must offer his property as a gift
- b) Acceptance-The donee must accept the gift.
- c) Possession-The donee must take possession of the gifted item.

*(Al Hidāya Vol 3 Pg 222,
Maktaba Dārul Ahya’ Turāth Al‘arabi)⁹*

⁹ الهبة عقد مشروع... "وتصح بالإيجاب والقبول والقبض" أما الإيجاب والقبول فلائنه عقد، والعقد يتعقد بالإيجاب، والقبول، والقبض لا بد منه لثبوت الملك (الهبة في شرح بداية المبتدي ٢٢٢ /٣ ، دار احياء التراث العربي)

The overall purpose of these conditions are the owner must gift the item in such a way that he relinquishes all rights over the property and has no claim over the property.

2, 3) It is permissible to make use of a legal loophole to overcome taxes. If a person intends to gift his property to his son, for example in his lifetime, he should fulfill the conditions as stated in answer no1. He may also register a deeds of donation to overcome taxes. To avoid confusion, he should prepare an external document stating that the house in reference belongs to his son and was gifted in your lifetime.

4) Inheritance is upon and after death. When a person passes away, the Shariah laws of Inheritance and Succession will apply. The sons share is twice the share of the daughter. This is expressly stated in the Quran.

لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ

...For the male is (the share) equivalent of two females...

(Qur'an 4:11)

The mechanism of a special trust as advised by the legal experts in reference to make ones children, males and females equal beneficiaries after death is unfortunately incorrect. The trust must be designed according to the Shariah laws of Inheritance.

Dua to make ones wife beautiful

Q: I would like to know what are the sunna to follow for my wife, so that she becomes more beautiful. Is there any dua or sunna we have to make so that my wife become more beautiful? Alhamdulliah my wife is beautiful but since i live in a country like Australia sometimes when I see other non-muslim girls wearing short dresses, i feel like wish my wife were more beautiful. How can i stop it? I am trying my best to stop looking at other girls but its very hard. Even sometimes other girls just come in front of me while I am in the train, bus or on street. Is there any dua for it so that i can stay away from this sin and make my heart filled with love only for my wife and see her as most beautiful wife in my eyes?

A: Mashā'Allah, your desire to be content with your wife and regard her as the most beautiful woman in your eyes is commendable. We make *du'ā'* that Allah 'Ta'ala fulfills your wish. Aameen.

You state your wife is beautiful **but** when you see other woman, you feel your wife should be more beautiful. Beauty is competitive. One excels the other. Assuming you see the most beautiful woman today, for how long will she be the most beautiful person in your sight?

Within a short period you may see someone even more beautiful. The beauty of the previous most beautiful person will now be insignificant. Now someone else is most beautiful! There is no ending in competing beauties. The levels of beauty are infinite. You will **never ever** be

completely satisfied with the most beautiful woman. The beauty of a woman is relative and also limited. This is a reality and one cannot deny this. If one does not put a block on himself and exercises restraint in looking at women with competing beauties, he will get addicted to the sickness of enjoying the beauties, form and shape of women.

This is similar to a drug addict, or an alcoholic. He faces some problems in life and takes one dose that puts him on a “high” and takes him away from the world of reality to the world of fantasy. That escape is temporary. When he gets sober, the problem is bigger. Similarly, when a married person goes on a “high” with the form, shape and beauty of a woman, that is also short lived with no fulfillment.

When he faces the reality of life, he then realizes the harms of the evil act of not controlling one’s eyes. The heart and mind of such a person is caught up with another woman’s appearance and now suddenly his wife who he cherished so much is not that beautiful. This then has a rippling effect in ones marriage, anger, attitude, fights, bedroom complications etc. This is exactly what Rasulullah salallahu alayhi wasallam explained:

النَّظَرُ شَهْمٌ مِنْ سِهَامٍ إِلَيْسَ مَسْمُومَةٌ

The sight of a person (at the opposite gender) is a spear from the spears of shaitan.

(Mustadrak Hākim Vol. 4 Pg. 349)

Just one sight on a woman and see the damage. The sight on a woman is like touching a live wire, it shocks.

The simple solution is as prescribed in the Quran:

قُلْ لِلْمُؤْمِنِينَ بَعْضُوا مِنْ أَنْبَارِهِمْ وَخَفُّوا قُرُوحَهُمْ ذَلِكَ أَزْكَى لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ

Say to the believing men that they should lower their gaze and guard their modesty: that will make for greater purity for them: And Allah is well acquainted with all that they do

(Quran 24:30)

To lower the gaze is avoiding the problem. This seems to be a tough command. When one lowers his gaze, he fears he is losing out on the beautiful sight. In reality when he brings the courage and bears that pain of not seeing the woman, he saves himself from a bigger pain. Besides that, to bear the pain of not seeing the beauty of woman out of fear for Allah gives rise to the sweetness of imaan. That pain is for the pleasure of Allah. If you are in an unavoidable situation of woman, guard your eyes to the best of your ability. If your eyes fall on a woman, turn it away. Don't feed the heart and soul with more of it. A person's nafs and eyes are in his control. He has the strength to control them. All it requires is courage and focus on the pleasure of Allah.

Exercising restraint and controlling ones gaze gives one an unparalleled enjoyment of Imān.

Using interest money to build toilets

Q: Can interest money be used to pay for toilet facility and whudu kahans for an orphanage?

A: There are two views among the Ulama regarding the disposal of interest money received from the bank:

1) The first view is that such interest money can only be given to the poor who are entitled to receive Zakat (i.e. they must not possess the nisab of Zakat). It is also necessary that the recipients are granted ownership and possession of the wealth (*tamleek al-fuqaraa*). According to this view, it is not permissible to utilise such interest money directly in public welfare projects, such as building roads, bridges and public toilets etc.

(*Fatawa Mahmudiya: 24/431, Maktaba Mahmudiya*)

2) The second view is that in addition to giving such interest money to the poor, it is permissible to use such interest money directly in public welfare projects. According to this view, granting of ownership to the poor (*tamleek al-fuqaraa*) is not a requirement.

(*Fatawa Raheemiya: 9/279-282, Darul Isha'at*)*
(*Kifayatul Mufti: 7/105, Darul Isha'at*)

The first view is more precautionary (*ahwat*) whereas the second view is more accommodating (*awsa'*).

In view of the different academic views, there is a leeway to use interest money received from the bank for the

construction of toilets and ablution facility for an orphanage.

Note:

As a general rule, no Muslim by his free choice should deposit his money in an interest-bearing account. A non interest-bearing account should be utilised for the purpose. If there are any intricacies, a mufti should be consulted.

3 days / 40 days or 4 months Jamaat. Is it permissible?

Q: What is your opinion about going out in Jamat for 3 days/ 40 days / or 4 months? What are the basis of these specific days from Quran and Sunnah?

A:

A brief introduction to Tabligh Jamā'ah and their objectives

Tabligh literally means 'to convey'. Contextually, it refers to conveying the message of Islam. This is the *sunnah* of all the prophets. The most important rule of *Tabligh* is *hikmah*. Allah Ta'ala says in the Holy *Qur'an*:

ادع إلى سبيل ربك بالحكمة والموعظة الحسنة

Invite (people) to the way of your Lord with wisdom and good counsel.

(*Qur'an*, 16:125)

Whosoever does *Tabligh* must adopt *hikmah*. It is only then, that people will understand and accept.

The system conducted by the *Tabligh Jamā'ah* was initiated by Hazrat Mowlāna Ilyās Sāheb rahimahullah. He observed that people were too engrossed in their worldly activities and had forgotten the objective for which they had been sent to this world. He realized that they had to free some time from their worldly engagements, to sit and ponder about Allah Ta'ala and their purpose for being sent to this world. Therefore, he started calling people to the *masjid*, and reminded them about Allah Ta'ala and His greatness. Initially people rebuked him, they discouraged him and used to say that they had no time for all of this; but as time went by, they realized the truth behind it and the need for it, and started joining him in calling others towards Allah Ta'ala. Thereafter, when more people started joining this work, a few guidelines had to be set, to make sure that the work was done in a proper manner. Different time periods of 3 days, 40 days, etc. were set, so that people knew for how long they had to be away, and could make the necessary arrangements for that period.

Their objective is that each and every Muslim adopts the Islamic way in all aspects of life. They do not advice anyone to leave all their daily activities and join this work, but they encourage people to take out some time from their daily

engagements so that the rest of the time could be spent in accordance to the teachings of Islam. Spending time in the path of Allah is not the objective of the work, but rather it acts as a motivation to practice on all other aspects of *Deen*.

Proof from Qur'ān and Hadīth

There are many verses of the *Qur'ān* and the *Ahadīth* of Nabī *sallallahu 'alaihi wasallam* that support the practice of *Tabligh*. Hereunder are a few of them:

From the Holy *Qur'ān*:

1.

ادع إلى سبيل ربك بالحكمة والموعظة الحسنة

Invite (people) to the way of your lord with wisdom and good counsel.

(*Qur'an*, 16:125)

2.

ولتكن منكم أمة يدعون إلى الخير ويأمرون بالمعروف وينهون عن المنكر

And there has to be a group of people from among you who call towards good and prevent from evil.

(*Qur'an*, 3:104)

3.

ومن أحسن قولاً ممن دعا إلى الله وعمل صالحاً وقال إنني من المسلمين

*And who is better in utterance than the one who called people towards
Allah,
and acts righteously and says, "I am one of those who submit
themselves (to Allah Ta'ala).*

(Qur'an, 41:33)

From the Ahadīth of Nabī sallallahu 'alaihi wasallam:

4.

Hazrat Abu Sa'eed radhiyallahu 'anhu narrates that he heard Nabī sallallahu 'alaihi wasallam saying, "Whosoever witnesses a forbidden act being committed, he should prevent it by the use of his hands; if he is unable to do so, then he should prevent it with his tongue; if he is unable to do so, he should at least consider it a vice in his heart; and this is a very low level of Iman".

(Sahih Muslim Vol.2 Pg.211/2 - Darul Ma'rifah)¹⁰

5.

It has been reported on the authority of Nu'mān bin Bashīr radhiyallahu 'anhu that Nabī sallallahu 'alaihi wasallam said,

¹⁰ فقال أبو سعيد أما هذا فقد قضى ما عليه سمعت رسول الله صلى الله عليه وسلم يقول من رأى منكم منكراً فليغيره بيده فإن لم يستطع فبلسانه فإن لم يستطع فبقلبه وذلك أضعف الإيمان (صحيح مسلم ج ٢ ص ٢١١-٢١٢ دار المعرفة)

“There are people who do not transgress the limits (laws) of Allah Ta’ala, and there are others who do so. They are like two groups who boarded a ship; one of them settled on the upper deck, and the other on the lower deck of the ship. When the people of the lower deck needed water, they said, “Why should we cause trouble to the people of the upper deck when we can have plenty of water by making a hole in our deck”. Now, if the people of the upper deck do not prevent this group from such foolishness, all of them will perish; but if they stop them, they will be saved”.

(*Sahih Al Bukhari Vol.3 Pg.152 - Darul fikr*)¹¹

The objection that 3 days, 40 days, 4 month going in the path of Allah is not in the Qur’ān and Sunnah

It is a commandment of *Shari’ah* to acquire knowledge, but the manner in which the *Madaris* are established today, is not proven through *Qur’ān* and Sunnah. Up until the recent past, the scholars used to teach in the *masjids* of their respective towns and villages. The students had to go to different scholars to learn the different sciences. No arrangements of food or boarding were made. However, the zeal for knowledge had decreased as time went by, and the scholars felt it necessary to establish the system of *Darul*

¹¹ عن النعمان بن بشير رضي الله عنهما عن النبي صلى الله عليه وسلم قال مثل القائم على حدود الله والواقع فيها كمثل قوم استهموا على سفينة فأصاب بعضهم أعلاها وبعضهم أسفلها فكان الذين في أسفلها إذا استقوا من الماء مروا على من فوقهم فقالوا لو أنا خرقنا في نصيبنا خرقاً ولم نؤذ من فوقنا فإن يتركوهم وما أرادوا هلكوا جميعاً وإن أخذوا على أيديهم نجوا ونجوا جميعاً (صحيح البخاري ج ٣ ص ١٥٢ دار الفكر)

Ulūms Dārul Ulūms as is established today. Nobody regards such a system to be *bid'ah*!

Similarly, *Shari'ah* has commanded us to do the work of *Tabligh*. This work used to be done on an individual basis. The learned people used to preach people and prevent them from all vices. As time went on, vice started prevailing, and people had stopped doing the work on an individual basis; therefore, a collective effort had to take place, and rules had to be set up for the work to carry on in order.

Importance of seeking knowledge

We accept the fact that it is important to seek knowledge, and certain aspects of *Deen* are such that it is compulsory for each and every Muslim to know them. There are millions of Muslims in the world. It is not practically possible that all these Muslims join *Dārul Ulūms* and *madaris* or (as mentioned by the Shaykh) sit in the *masjid* and acquire knowledge, as is the custom in , etc. All the Muslims in the world will not be prepared to do this, nor can the *Dārul Ulūms* and *madaris* accommodate such a big body of students. Therefore, a different mechanism had to be adopted.

It was observed that only the minority that were in *Dārul Ulūms* and *madaris* were acquiring knowledge, and the vast majority was too engrossed in worldly activities, resulting in the ignorance of even the basic principles of *Deen*. Therefore, a method was engineered where the Muslims were requested to take out some time from their daily engagements and come to the *masjid*. Here they were

reminded about Allah Ta'ala and how ignorant they were of the teachings of Islam. This led them to spending more time in the path of Allah and eventually they were educated with the basic teachings of Islam. It is apparent today that anyone who spends atleast 40 days in the path of Allah is acquainted with the basic rulings of *salat*, *wudu*, etc. and also learns to recite those *suras* of the *Qur'an* that are read frequently in *salat*. Moreover, the work of *Tabligh* has created awareness for the lack of knowledge in Muslims in the past few years, resulting in more students joining *madaris* and the opening up of more *Dārul Ulūms* and *madaris*.

The position of knowledge in Tabligh Jamā'ah

Tabligh Jam'at does not discourage people from acquiring knowledge, but rather it acts as an encouragement for people to go seek knowledge. The teachings of *Tabligh Jamā'ah* are based on “six points”, the third point of which is “‘ilm (knowledge) and *zikr* (remembrance of Allah Ta'ala)”. When the brothers who go out in the path of Allah, the virtues of knowledge are read to them and they are encouraged to go to the scholars of *Deen* to acquire knowledge of the rulings of Islam. The students and teachers of schools and *madaris* are discouraged to disrupt their studies for the work of *da'wah*, but they are inspired to give their free time for this work. There are extremists that give preference to *da'wah* over knowledge, but this is totally against the teachings of the seniors of *Tabligh Jamā'ah*.

Propagating without knowledge

It is true that one should not preach what one does not know. However, not having knowledge in one field does not mean that one cannot propagate at all. There is no one present on the face of the earth who can say that he has mastered all fields, or even one field for that matter. Knowledge is so vast that no creation can encompass it. Therefore, we cannot say that one should wait till he has perfected his knowledge in order to propagate it. It is enough for a person to know one aspect of *Deen* to propagate that aspect to another person. We also understand from the *Ahadith* of *Nabī sallallahu ‘alaihi wasallam* that he ordered the *Sahabahradiyallahu ‘anhum* to propagate whatever they heard from *Nabī sallallahu ‘alaihi wasallam*, even if it was one sentence.

عن عبد الله بن عمرو أن النبي - صلى الله عليه وسلم - قال « بلغوا عني ولو آية ... » .

It has been narrated on the authority of Abdullah bin Amr *radhiyallahu ‘anhu* that *Nabī sallallahu ‘alaihi wasallam* said, “Convey (my teachings) to the people even if it were a single verse or sentence (from the *Qur’ān* or the *Sunnah* ...”.

(*Sahih Al Bukhari Vol.4 Pg.175 - Darul fikr*)

Similarly, the brothers who go out in the path of Allah discuss the “six points” with those who have spent more time than them. After they are well acquainted with the “six points”, they are allowed to give talks in the mosque. They are advised to speak only within the “six points” and not speak anything besides that. In this way, they propagate only what they know and not what they do not know. Only the

qualified scholars are allowed to elaborate on issues other than the “six points”. This is the reason why most of the brothers that take part in the work of *Tabligh* do not answer questions posed on *aqeedah* and rules of Islamic jurisprudence. Anyone who poses such questions is asked to consult an ‘*alim*’ for an answer.

It has also been the concern of the seniors of the work of *Tabligh* that many of the *Jamā‘ahs* go out in the path of Allah without a single ‘*alim*’ in the whole *Jamā‘ah*. They are trying to rectify this situation by inviting more scholars to do this work. However, they make sure that there are at least one or two ‘*ulamā‘*’ in every *Jamā‘ah* that is sent to another country.

Misquoting the Ahadith of Nabī sallallahu ‘alaihi wasallam

It is a great sin to falsely attribute anything to *Nabī sallallahu ‘alaihi wasallam*. *Nabī sallallahu ‘alaihi wasallam* has said:

ومن كذب على متعمداً فليتبوأ مقعده من النار

Whoever tells a lie against me intentionally, then surely let him occupy his seat in the (hell) fire.

(*Sabih Al Bukhari Vol.4 Pg.175 - Darul fiker*)

It is a sad fact that scholars and the general masses are all involved in this malpractice of misquoting the *Ahadith* of *Nabī sallallahu ‘alaihi wasallam*. Incidents and

sayings are taken from books and other talks, and attributed to *Nabī sallallahu ‘alaihi wasallam* without trying to figure out if they are authentic or fabricated. This malpractice is not found only amongst those brothers who are involved in *Tabligh Jamā‘ah*, but is a common practice of many of the speakers who want to spice up their talks with interesting stories.

The seniors of *Tabligh Jamā‘ah* discourage the others from quoting such narrations, but there are many who do not adhere to this advice. However, it will not be advisable for one to abandon the work of *Tabligh* because of these speakers, but rather join the work and correct this malpractice.

It is because of the fear of misquoting the narrations of *Nabī sallallahu ‘alaihi wasallam* that the brothers of *Tabligh Jamā‘ah* attribute the narrations to their seniors and say that ‘so and so said it’. In this way they are saved from attributing those narrations to *Nabī sallallahu ‘alaihi wasallam* of which they have no knowledge.

The ones nearer to you have more right

We accept the fact that the ones nearer to you have more right, and you should propagate to them before you start propagating to others. Allah Ta‘ala mentions in the Holy *Qur’ān*:

وَأْمُرْ أَهْلَكَ بِالصَّلَاةِ وَاصْطَبِرْ عَلَيْهَا

Bid your family to perform Salāh, and adhere to it yourself.

(Verse: 20:132)

However, this does not mean that one has to wait till everyone in his family and locality has come totally upon Islam before he could propagate to others. *Nabi sallallahu 'alaihi wasallam* did not wait for the whole of Makkah Mukarramah to accept Islam before he went to Taif. All *madaris* do not wait till everyone in that town or village becomes an '*alim*' before they accept students from other towns or countries. Similarly, the brothers involved in *Tabligh* go out in the path of Allah, but they are also doing this work in their locality when they are not out in the path of Allah.

Moreover, this objection needs to be justified only if we assume that the brothers go out in the path of Allah to rectify the others, whereas, their objective of going out in the path of Allah is to rectify themselves. We have mentioned above that spending time in the path of Allah is not the objective of the work, but rather it acts as a motivation to practice on all other aspects of *Deen*. The objective is to be involved in *masjidwar a'mal* after they return home. *Masjidwar a'mal* includes doing *gusht* (going door to door) in the locality and reading 'the book of virtues of good deeds' at home.

Ref: Taken mainly from Fatawa Mahmūdiyyah Vol.4 Pgs.228-243 (Jami'a Farūqiyah)

And Allah Ta'ala Knows best

**Mufti Abu Yahya,
Sri Lanka**

**Checked and approved with the following additions
with regards to 3 days/40days and 4 months:**

The principle and simple response to this objection is,

- One is a general order of *Shari'ah*. For example *Da'wah* and *Tabligh*, seeking Knowledge etc.
- The other is the procedure in carrying out these orders.

The procedure to do *da'wah* and *Tabligh*, seeking knowledge etc. are subservient to *Maslihah* (prudence). *Maslihah* is a very important juristic principle and governs many orders of *Shari'ah* based on circumstances.

It is the wisdom of a wise person/s to understand circumstances and guide and act accordingly.

Rasulullah salallahu 'alayhi wasallam wanted to rebuild the *Ka'bah Sharif* and include the *Hatim* area in it as it was excluded by the Arabs at the time of *Jabiliyyah* due to shortage of funds.

- Consider, the *Ka'ba Shareef* is the house of Allah.
- It was built by His beloved prophet *Ebrahim alayhis salam* with the order of Allah.
- The *Ka'ba Shareef* is a symbol of Allah on earth.
- The final and most beloved *Rasul* of Allah *salallahu alayhi wasallam* expressed his desire to rebuild the *Ka'ba* and include the *Hateem* in the enclosed part of the *Ka'ba*.

Inspite of such overwhelming positive points, Rasulullah *salallahu alayhi wasallam* decided against rebuilding the Ka'ba as that was against *Maslibah*.

The people would accuse Rasulullah *salallahu alayhi wasallam* of starting a new religion and changing the symbols that are near and dear to them. That in turn would turn the people away from Islam.

It is also important to consider that this consideration of Rasulullah *salallahu alayhi wasallam* was during his final Hajj. Makkah was conquered. Islam has spread and thousands entered into the fold of Islam already. Rasulullah *salallahu alayhi wasallam* could have all had the support to change the Ka'ba. Yet he exercised restraint. All this was due to *Maslihat*.

There are innumerable examples in *Seerah* of invoking the rule of *Maslibah* for purpose of *Da 'wah*. A wise person looks beyond the surface of the issue.

Da 'wah (propagation) is an integral part of Deen. It is actually one of the missions of Rasulullah *salallahu alayhi wasallam*. In fact the mission of every prophet of Allah.

Any person having insight on the history and life of the prophets will understand that the procedure of *da 'wah* during the different prophets was circumstantial. Every prophet faced a different challenge which required a different approach of *da 'wah*.

It is common knowledge,

“The laws of one nation cannot govern the other”

Rasulullah *salallahu alayhi wasallam* is the last prophet. His mission of *Da 'wahh* will remain till the day of judgement.

The Ummat will face changing conditions all the time.

What was the best method of *da 'wahh* 1000 years ago, may not be the best now. New methods had to be introduced to achieve the common objective of *Shari 'ah* and *Da 'wahh*. Surely, any new method must not violate any injunction of *Shari 'ah*. At the same time, *Shari 'ah* does not oppose introducing methods to uphold the common objectives of *Shari 'ah*. In fact to some extent *Shari 'ah* encourages it.

إذا ثبت الشيء ثبت بلوازمه

When something is established, it will be with all its imperatives

Take for example, *Shari 'ah* has emphasised on building *Masajid*. There are great rewards promised for a person that builds a *Masjid*.

مَنْ بَنَى لِلَّهِ مَسْجِدًا بَنَى لِلَّهِ لَهُ مِثْلَهُ فِي الْجَنَّةِ

Whosoever builds a Masjid for Allah's pleasure, Allah will build for him a similar in Jannah

(Sunan Tirmidhi Shareef #318, Vol. 2 Pg 134)

Building a *Masjid* is an expression of a person's *Imān*.

However, what takes place before building a Masjid and what happens after a Masjid is built are all administrative issues left to the discretion of the person, for example:

- Consulting appropriate people in the choice of the land.
- Choosing a builder
- Obtaining funds
- Drawing a constitution
- Appointing an Imam
- The daily activities in the Masjid

There are no specific rules governing all the issues surrounding the building of a Masjid. However,, *Shari'ah* does not oppose these issues as it is a means to achieve the objectives encourages in *Shari'ah*.

Will anyone object to these issues in establishing Masjid?

Can anyone claim, where is it in the *Qur'an* and *Hadith* to have a constitution for a Masjid?

Where is it in the Qur'an that there should be specific talks and programmes in the Masjid? All this is left to the discretion of the trustees of the *masjid*.

Similarly, *Shari'ah* emphasizes on seeking knowledge of *Shari'ah*? There is no specific order of *Shari'ah* to learn Arabic.

However, it is understood that the Arabic language is a medium to understand the Qur'an and *Hadīth*. Hence, the learning of Sarf, Nahw, Fasahat and Balaghah etc.

Similarly, there is no mention of establishing madrasahs and *Dārul Ulūms* with a five year or seven year curriculum. All these are based on careful thought, experiences and administering an agenda to achieve the objective of being educated in *Sharī'ah*.

Nowhere in the Qur'an it is stated to study specific subject or for a specific time period?

If these *lawāzīmāt* (imperatives) of a masjid or becoming an Alim are not implemented, a masjid would not be built or not properly administered. There would not be well educated Ulama.

This is also understood in the circular field. There is a need for doctors, lawyers, and other apprentices.

It is only after a person spends a few years studying and doing apprenticeship in a particular field, is one qualified enough to practice in that field. To practice as a doctor without fulfilling these administrative requirements is termed as fraud. Will it be wise to question where is this in the Qur'an and the Hadith?

How can such a huge responsibility of *Da'wah* be fulfilled without undertaking training in the field of *Da'wah*. *Da'wah* is not merely representing ones client

in law. *Da 'wahh* is not merely administering medicine or fixing someone's lights like an electrician does!

It is to guide mankind from the darkness of kufr to the lights of Iman and faith in Allah.

It is to guide one from the attachment of their temporary materialistic world to the everlasting hereafter.

This is a huge and mammoth task. It requires the **pain** in the heart to witness kufr and shirk, to witness people treading the path to jahannam (hellfire).

Once that **pain** is there, the rest follows – sacrifice with wealth and life.

This pain is inculcated by going out and witnessing the condition of people immersed in their worldly life. Knowing something can never be like personal experience.

ليس الخبر كالمعاينة

Information (of something) is not the same as witnessing (through eyes)

Our Ulama have thus encouraged people to go out for a few days, 3 days, 40 days, 4 months to witness the condition of the people and feel the pain of Ghafalah (obliviousness) , kufr and shirk and then exert oneself to guide oneself and other on to Sirat al Mustaqeem.

The best answer to your objections is join the work with experienced elders and witness the noor of the work yourself.

No amount of explanation will fulfil you equivalent to your personal experience.

There is a saying,

The taste of the pudding lies in tasting it.

Looking at the pudding will not make you understand the taste.

Regulating the markets

Q: I have one question regarding Trade and Industry in Islam and would like it answered with the view of large corporations or conglomerates. Thereafter please feel free to offer any advice to small/medium businesses and even if you would like to refer me to any good source of literature on the acceptable conduct for businessmen within Islam.

Is it permissible to regulate the flow of goods and services in order to obtain a premium on the eventual sale of those goods/services? (i.e. withholding stocks so that market prices may surge)?

A: Islam is a complete way of life. Hence, just as emphasis has been placed on ibaadaat (worship), emphasis has also been placed on muasharaat (social ethics) and muamalaat (social dealings) which includes business and economics.

Business in Islam is not only about enriching oneself. It also serves as a means of benefiting and developing society.

Therefore, a system of sound rules and morals has been instituted in consideration of fellow human beings. As a result, any transaction which has an element of harm to an individual or society is abhorred in Shariah. It is precisely for this reason that price fixing etc has been declared as prohibited.

Shariah promotes free trade and a competitive market. Every individual is free to sell a commodity on whatever price he wishes. One person would thus sell his commodity on a higher rate while another would sell the same item at a cheaper rate. Thus, a competition is created in the market. In this approach, the independency of the owner is maintained as well as benefit to the consumer.

Ihtikaar (Regulation of the flow of goods, hoarding) has also been prohibited as ihtikaar is an expression of selfishness. Nabi (sallallahu alayhi wasallam) has said

Whoever withholds, he is a sinner (al-Bayhaqi 6/29 Dar al Kutub al-ilmiyyah)¹²

However, the Fuqaha have confined the prohibition of ihtikaar to food items. Therefore, in all other items, ihtikaar will be permissible but discouraged.¹³

¹² من احتكر فهو خاطئ (البيهقي ج ٦ ص ٤٩ دار الكتب العلمية)

¹³ ينهي للخروج من الاختلاف بالامام يوسف - رد المختار - (٦- ٣٩٨ سعيد) والتقييد بقوت البشر قول أبي حنيفة ومحمد وعليه الفتوى كذا في الكافي ، - بدائع الصنائع في ترتيب الشرائع - (٤-٣٠٩ دار الكتاب ديوبند)

Money Matters between husband and wife

Q: Please advise is it permissible for a wife to borrow money without the husband's approval or having discussed this with him. Also there are numerous ahadith as to how the husband should treat his wife how should a wife treat her husband even if it comes to disagreeing on something with regards to her parents. Is it also right for a wife to override her husband if her parents tell her to do something and the husband disagrees.?

A: Jazakallah for writing to us with your question.

Allow me to point out that the relationship between a couple should be one in which they consult each other on important matters at all times. Money can become a 'bone of contention' in a marriage and lead to lots of ill feeling and grief if problems that come up are not dealt with effectively and in a mature way. A couple should communicate with each other with respect, tolerance and understanding rather than dealing with each other as if they are adversaries in a

وعند محمد رحمه الله لا يجري الاحتكار إلا في قوت الناس وعلف الدواب من الحنطة والشعير والتبن والقت . - تبين الحقائق شرح كنز الدقائق - (٧-٦١ دار الكتب العلمية)
وتخصيص الاحتكار بالأقوات قول أبي حنيفة ومحمد رحمهما الله ، - العناية شرح الهداية - (ج ١٤ / ص ٢٨٠ المكتبة الشاملة)
وتخصيص الاحتكار بالأقوات كالحنطة والشعير والتبن والقت قول أبي حنيفة رحمه الله ، - الجوهرة النيرة - (ج ٦ / ص ١٧٦)
وخص الاحتكار بالأقوات كالحنطة والشعير والقت والتبن والحشيش وهو قول أبي حنيفة .

boxing ring or worse. Allah Ta'ala did not allow marriage so that two people may hurt and destroy each other. Rather, marriage between man and woman is to bring about greater good for the couple, their families and society as a whole.

To be forthright brother, I need you to question yourself. What has led to the wife having to borrow money (why does the wife have a need to borrow money) from someone. Who is she borrowing the money from and what does she intend to do with the money? Is it not possible to discuss this with her?

You ask if it right for a wife to override her husband and be disobedient towards him. As long as her husband is not asking her to indulge in haraam and unacceptable matters, she has to obey her husband. Her first allegiance is towards her husband and not to her parents although she has to always respect and love her parents. If a husband has valid and reasonable reasons for stopping his wife from doing certain things that could affect their marital relationship negatively, she should by all means do whatever is within her power to not only obey her husband but also support him in an effort to maintain harmony in the marriage. The harmony in a marriage cannot only be maintained by one spouse. It needs hard work, commitment, understanding, tolerance, cooperation and patience from both spouses. If one spouse decides that she/he wants to do what she/he wants to and disregard the partner, then problems are bound to occur and escalate. This will be detrimental to the whole family as it can lead to the breakdown of the relationship.

I urge you to ask a learned scholar to assist you with your marital problems if you have not had success by asking her parents to intervene and help with the matter. I also urge you to take a close look at how you have been managing your marital issues and examine whether you have been unfair and overlooked your wife's rights in any way that could have led to her behaving the way she does. May Allah Ta'ala ease your difficulties and grant both of you the hidayah to seek His pleasure by practicing the Sunnah of our beloved Nabi (Sallallaahu alayhi wassallam) in your marriage, ameen.

Female doctor in Niqaab

Q: I m a doctor from USA. I finished my medical school from pakistan while I was admitted there by scholarship so I left usa to go to pakistan.

Their I joined the madrasa and started niqaab. After my study is complete I had to come back to usa because my father is here who is the one who actually supports me.

Now my father is not accepting my niqaab at all and everything I go to find a job as a doctor he discourages me and I have found it so hard to find a doctor position in usa.

I have no other choice. I m not married yet that I can convince my husband to move. My dad is so authoritative and he is hypertensive and depressive patient. If I argue with him or even tell him politely his bp shoots and he has to take medicines. Please guide me the right path. I m very

upset and I want to continue my career as a doctor but I m not ready to take my niqaab off.

A: Jazakillah khayr for writing to us regarding, firstly your difficulties in trying to please Allah Ta'ala and on the other hand trying to please your father also. Sister, do please remember that no matter what your father says to you, you have to respect him and speak gently to him. I understand that it can be very frustrating, upsetting and difficult to talk to someone about why you are wearing a niqab. It is also important to be aware that your parents always deserve to be respected.

You are totally within your rights to wear niqab. You do not have to give it up if you do not wish to do so as it appears that to you, pleasing Allah Ta'ala is more important than pleasing human beings. So when your father starts challenging or attacking you, silently (in your mind) make dua for him and also make istigfar but avoid answering and retaliating. You know that you are in his house and at present you have nowhere else to go. Not that I am saying you should leave but as long as you are with him, try by all means to keep the peace. You are the younger one and it is Allah Ta'ala's commandment that we should not even say "oof" to our parents. I can understand that it will be difficult to get a job as a doctor in USA as conditions have turned against Muslims as a whole.

How about thinking of doing some other studies from home that will allow you to earn and grow in your field until conditions improve? I know it is difficult not to be able to practice in the field of your qualification but I guess you

need to become creative in how you deal with the difficulties. Many doctors in South Africa are studying parallel medicine like Tibb medicine / acupuncture/ homeopathic and flourishing from their own practices.

I do not understand the part of your question where you mention that ‘yet I can convince my husband to move.’ Are you saying you are getting married or married already and you want to move elsewhere? Sister do not despair. Your father will Insha’Allah understand the virtue of your choice sometime in the future. Consider this as your test from Allah Ta’ala.

Perhaps your sincerity is being tested and Allah Ta’ala is drawing you closer to Him by placing this difficulty before you. Do remember that our predecessors gave up their homes, wealth and even lost their lives so that deen could to us and the future generations. Perseverance, patience, dua and steadfastness are required from you. You have much work with respect to your deen. Who knows, you may become one of the great ladies of Islam by inviting many hundreds to deen and a pure way of life. May Allah Ta’ala ease your difficulties, keep you steadfast on imaan, guide your father and your family towards obeying Allah Ta’ala’s commandments, ameen. You may write again if you wish.

Giving away ones wealth before death.

Q: I've heard that if a man distributes all his property among heirs and then his death occurs, it can be said that he left the world as a poor man. In this process, it can be

said that, gathering property is not a problem if it can be distributed before death. Is it true?

A:

On the authority of Sa'd ibn Abi Waqas radiallahu anhu, it is narrated that he said that the Nabi of Allah salallahu alayhi wasallam visited me at Makkah while I was ill. I said (to him), "I have property; May I bequeath all my property in Allah's Cause?" He said, "No." I said, "Half of it?" He said, "No." I said, "One third of it?" He said, "One-third (is alright), yet it is still too much, for you'd better leave your inheritors wealthy than leave them poor, begging of others. Whatever you spend will be considered a Sadaqah for you, even the morsel of food you put in the mouth of your wife. Perhaps Allah may let you recover, so that some people may benefit by you and others be harmed by you."

(Sahih Bukhari 7/62)¹⁴

It is clear from this Hadith that:

- Sayiduna Sa'd radiallahu anhu was a wealthy person.
- He wanted to distribute his wealth in his life time.
- Rasulullah salallahu 'alayhi wasallam advised him against that.

¹⁴ ٥٣٥٤ - حَدَّثَنَا مُحَمَّدُ بْنُ كَثِيرٍ، أَخْبَرَنَا سُفْيَانُ، عَنْ سَعْدِ بْنِ إِسْرَاهِيمَ، عَنْ عَامِرِ بْنِ سَعْدٍ، عَنْ سَعْدِ بْنِ أَبِي وَقَّاصٍ رَضِيَ اللَّهُ عَنْهُ، قَالَ: كَانَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَعُودُنِي وَأَنَا مَرِيضٌ بِمَكَّةَ، فَقُلْتُ: لِي مَالٌ، أَوْصِي بِمَا لِي كُلِّهِ؟ قَالَ: «لَا» قُلْتُ: فَالْشُّطْرُ؟ قَالَ: «لَا» قُلْتُ: فَالثُّلُثُ؟ قَالَ: «الثُّلُثُ وَالثُّلُثُ كَثِيرٌ، أَنْ تَدْعَ وَرَثَتَكَ أَغْنِيَاءَ خَيْرٌ مِنْ أَنْ تَدْعَهُمْ غَالَةً يَتَكَفَّفُونَ النَّاسَ فِي أَيْدِيهِمْ، وَمَهُمَا أَتَقَفْتَ فَهُوَ لَكَ صَدَقَةٌ، حَتَّى اللَّقْمَةُ تَرْفَعَهَا فِي فِي امْرَأَتِكَ، وَلَعَلَّ اللَّهَ يَرْفَعَكَ، يَنْتَفِعَ بِكَ نَاسٌ، وَيُصَرَّ بِكَ آخَرُونَ» (صحيح البخاري ٦٢ / ٧)

- It is better to leave ones wealth as inheritance for ones heirs.

Selling Satellite Dishes

Q: Is it permissible to install satellite dishes/dstv dishes that may receive both Islamic and non Islamic channels for the purpose of income?

A: A satellite is an instrument of broadcasting multiple types of audio (telephone, radio etc.) and visual(TV/intenet) communication.(World Book Encyclopedia).The satellite is a general means of broadcasting and could be used to broadcast permissible and impermissible content. One is not actively responsible for listening or seeing the unislamic content relayed on radio, TV and internet; therefore installing satellite dishes as a source of income is permissible. If a person uses the satellite facility to listen or see unislamic content through any means, he will be responsible for the sin.

(Fatāwa Hindiyyah Vol. 3 Pg. 116,Darul Fikr)

Secret Second Marriage

Q: Does a man requires permission to take a second wife from the first ? Is he required to notify his first wife of the second marriage. Can he make Nikah secretly ??

A: It is not a requirement of Shariah that a husband take the permission of his wife to remarry. If a husband remarries

without the consent of his wife, the marriage will be valid. In order to avoid acrimony between the husband and the wife, it is advisable that the husband discusses his intention to remarry with his wife. It is possible the wife may react negatively to his plan to remarry. However that may be better than him marrying secretly. A secret marriage poses many discomforts to the husband. Firstly the tension of maintaining the secret. At all times he has to be on guard from his wife in every aspect, in his movements, contacts, speech etc.

Secondly if the wife learns of his secret marriage she will feel betrayed. Her reaction and subsequent conduct may be worse than her possible negative reaction when informing her before the marriage.

In brief, what was to be a means of peace and solace then turns out to be a means of grief and agony. In a well put statement by an experienced person with a second marriage, “from the pot to the frying pan”.

Middle East Crisis

Q: What are your observations on the Middle East crisis??

A: Hazrat Ali radiallahu anhu stated, “A country can continue to exist with disbelief, but a country will not endure with oppression.” History reveals that victims of oppression may be temporarily suppressed but never permanently eradicated. It is human nature to revolt against oppression. Over a period of time, it catches up with the oppressor. This is clear in the context of oppressive apartheid system in South Africa and the oppressive regimes in Tunisia, Egypt, Libya and Syria. The oppression has bounced back to choke the oppressors. The intelligence and resources of the oppressors never availed them. The Qur'an speaks of the fall of the oppressors Fir'aun and Qārūn. We should also take heed of the unfolding events of oppression in the Middle- East and desist from all levels of oppression, personal and systematic. If a person becomes a victim of a systemic form of oppression, all the members that are part of the system are equally responsible for the oppression and will suffer the consequences in proportion to their participation in the oppression.

Allah is Al Adl,(Just). An oppressor will most definitely meet and see the consequences of his Dhulm. A victim is shrouded in the grace of Allah's justice. One of the major lessons to be gained is that the kuffaar's friendship is based on their self-interests. Those very same Arab dictators who were bosom allies of the West were abandoned by their “friends” when their sell-by-date expired.

Buying and Selling used cars - Guidelines

Q: I want to start a part time business in which i will purchase used cars and then will sell them at a margin. For that purpose i want to know the principles/rules of trading provided by islamic sharia. Therefore kindly inform me any source from where i can learn them easily or is there any book written on this topic, which can be bought and read online.

A: If you purchase and sell cars at a profit and you referred to the cost price then that is a muraabahah deal.¹⁵ The cost price may include expenses incurred by you in the car.¹⁶ In this case, the purchaser knows what is your profit margin. If the seller deceives the purchaser with regards to the cost price, the purchaser will have recourse.¹⁷

If you did not refer to your cost price, then this is a general sale.¹⁸ In this instance, the purchaser does not know your profit margin. You are not obliged to divulge your cost price to the purchaser.

¹⁵ (التولية بيع بالثمن الأول ، والمراجحة بزيادة ، والوضعية بنقيصة) (الاختيار لتعليل المختار - ط.العلمية - ((٢٨ / ٢) -

¹⁶ قال : (ويجوز أن يضم إلى الثمن الأول أجرة الصبغ والطرار وحمل الطعام والسمسار وسائق الغم ويقول : قام عليّ بكذا) (الاختيار لتعليل المختار - ط.العلمية - ((٢٩ / ٢) -

¹⁷ فإذا ظهرت الخيانة يرد أو يختار على ما يأتيك إن شاء الله تعالى (الاختيار لتعليل المختار - ط.العلمية - ((٢٩ / ٢) -

¹⁸ وفي الشرع : مبادلة المال المتقوم بالمال المتقوم تمليكا وتملكا (الاختيار لتعليل المختار - ط.العلمية - ٢) - ((٣ /

You may sell the car for cash terms or on credit.¹⁹ The price between the two, cash and credit may differ. The credit price may be higher than the cash price.²⁰ The longer the period of installment, the higher the price could be. The mode of transaction, cash or credit must be specified. You may also sell the car voetstoots. That is you absolve yourself from any claim of any defect in the car.²¹

If the customer enquires of any defect in the car and you know of the defect then you should inform him. In spite of selling the car voetstoots, providing this information is a moral issue.

If you sell your car on credit you may demand a security for payment from the purchaser. The security may be through Rahn or Kafaalat.

Rahn is the debtor places an item as collateral to you. If he does not pay, the item may be sold to recover your debt.²²

¹⁹ ويجوز البيع بثمن حال ومؤجل إذا كان الأجل معلوماً (الباب في شرح الكتاب - (١ / ٢٤١))

²⁰ **Introduction to Islamic Finance pg102**

²¹ (ومن اشترى عبداً) مثلاً (وشرط البراءة من كل عيب فليس له أن يردّه ببيع) مطلقاً موجود وقت العقد أو حادث قبل القبض (وإن لم يسم العيوب ولم يعدّها) لأن البراءة عن الحقوق المجهولة صحيحة لعدم إفضائها إلى المنازعة (الباب في شرح الكتاب - (١ / ٢٦٦))

²² وفي الشرع: الحبس بمال مخصوص بصفة مخصوصة، شرع وثيقة للاستيفاء ليضجر الراهن بحبس عينه فيسارع إلى إيفاء الدين ليفتكها فينتفع بها ويصل المرتهن إلى حقه (الاختيار لتعليل المختار - ط. العلمية - (٢ / ٦٦))

Kafaalat is a person stands guarantee to pay the debt on behalf of the debtor.²³ You may also consider withholding the car until the price of the car is paid in a cash sale agreement or partly cash sale agreement.²⁴

Khiyaar Naqd is another option of securitization. That is you say to the purchaser pay within for example one month. If you do not pay, then the transaction is cancelled.²⁵

Consequences of an absent father

Muslims are challenged with many dilemmas and fitna from all directions. It is noble and commendable to serve Allah Ta'ala's deen where and whenever possible. However, to serve one's family and to be consciously involved in the upbringing of one's children is a responsibility and duty every parent has (to fulfill).

²³ وفي الشرع (ضم دمة الكفيل إلى دمة الأصيل في المطالبة) هو الصحيح (الاختيار لتعليل المختار - ط. العلمية - (٢ / ١٧٨))

²⁴ الفصل الأول في حبس المبيع بالثمن قال أصحابنا رحمه الله تعالى للبائع حق حبس المبيع لاستيفاء الثمن إذا كان حالاً كذا في المحيط وإن كان مؤجلاً فليس للبائع أن يحبس المبيع قبل حلول الأجل ولا بعده كذا في المبسوط ولو كان بغض الثمن حالاً وبغضه مؤجلاً فله حبسه حتى يستوفي الحال ولو بقي من الثمن شيء قليل كان له حبس جميع المبيع كذا في الدخيرة (الفتاوى الهندية - ط. دار الفكر - (٣ / ١٥))

²⁵ إذا باع على أنه إن لم يتقدّم الثمن إلى ثلاثة أيام فلا يبيع بينهما فالبيع جائز وكذا الشرط هكذا ذكر محمد رحمه الله تعالى في الأصل..... وإن يئس المدة أكثر من ثلاثة أيام قال أبو حنيفة رحمه الله تعالى البيع فاسد وقال محمد رحمه الله تعالى البيع جائز كذا في المحيط (الفتاوى الهندية - ط. دار الفكر - (٣ / ٣٩))

Parents have to recognise that they live in a world where “western” influences are strong, no matter how much they may try to shield their children or themselves. They cannot go on burying their heads in the sand in this day and age and believe that they will not be affected or targeted in one way or another. They have to accept that their children are growing up in a world where peer group pressure, the education system and the media, be it “mXit”, drugs, movies, pornographic material exist and can have an influence on them. These traps can have a huge impact on their children’s lives and in fact on the lives of the parents themselves.

Children become confused when they have a “temporary father” or a father who takes little interest in being present for his children. This sort of father is considered as an absent father and the children often experience conflict about whether they are loved or wanted by him or not. Yes, a mother is the child’s first school but it is the father who is most important in teaching his children what the world is all about. He is the one who helps to establish moral and social values in the lives of his daughters and sons for he is their link with the outside world. He goes out daily into the outside world and he thus has full knowledge of what his children will be faced with. It is his duty to make them aware of the possible pitfalls they may encounter out there and help them by preparing them to deal with these pitfalls and other challenges.

He is also the parent who has a great deal of influence over his children in terms of their interests, be they academic,

religious, social or *otherwise*. When a father takes an interest in the children's education, they are more motivated to do well and to be "like father". Not only sons but daughters also love to impress their fathers and they often want to do well because, "my father will be so happy with me". They identify more with the father's qualities and code of life. This in turn helps to improve their self-esteem, confidence and identity of who they are as Muslims. They are better able to stand up to negative peer pressure and are more receptive towards avoiding evil.

When a father shows a lack of interest in his children's education, they often lack the motivation and interest in performing well. They feel rejected or have the attitude, "What's the point because my father does not care as he is too busy making money or doing his own thing". They also become ambivalent about whether they can love, trust and respect him or even obey him. They often find it difficult to obey him or follow his advice or guidance because he is not 'there for me when I need him'. By the *otherwise*, I mean that if a father does not convey his interest in his children's daily lives, his children will seek the "*otherwise*" which could be drugs, crime or worse. They will seek acceptance and recognition from their friends who instead become more important than the 'absent father'. In order to be accepted and to have a feeling of belonging (with their friends), these children may engage in activities that are haraam and that get them into trouble with the law.

The father should not just take the stand that he does not have to spend much time with his children or that, "My

children will be safe because I am fully engaged in the work of deen” The life of a Muslim has to be one of balance. If there is no balance in how a father conducts his time between work, family and deen, his family will be rocked from pillar to post. The father is the captain of his family and as such, he has been given the responsibility to protect and guide his family safely. He is the shepherd of his flock and he has to look after them.

It is totally unacceptable that a husband goes for 4 months jamaat and leaves his wife to work and support his family. In fact, he should have seen to it that he made adequate provision for his family so that his wife did not have to work during this time. She should have been in a position to give her full attention to her children and feel safe in her home by not having to be working. By away from home too often and by not spending quality time with them, he is abdicating his duties and responsibilities as a father and husband. If he is so caught up in his own world of television, car washes, business and other activities; he is neglecting his wife's and his children's rights over him. He should question himself and ask why he serves other people but fails to serve his own family. He has to examine himself and ponder over where his first duty lies. It is considered a great sadqa to assist one's wife in the home. His duty is to take his family to the doctors when needed and timeously too so that they don't miss their appointments. Since he goes in jamaat so often, he has learnt the value of time and punctuality. Time to put it into practice, brother. The brother concerned here should seriously consider what role he is playing in his family.

Earning Frequent Flier Miles from loan through Credit Card

Q: I wanted to loan some money to my friend to buy a fridge. For ease, instead of giving cash/check , I paid for the fridge on my credit card. (which Inshallah I will pay off before any interests accrues). Every time I purchase anything with my credit card, I get frequent flier miles as an incentive from the credit card company. My question is islamically is it correct to get this kind of benefit when you are loaning to someone? will this be considered as interest?

A: There is a difference between giving a loan to someone and paying a debt on behalf of someone. If you give a loan to someone, any excess on that loan will be interest.

In the enquired case, you did not advance a loan instead you paid a debt on behalf of a debtor. The debtor will repay you the debt. He is not giving you the frequent flier miles. The frequent flier miles is a voluntary gift from the Credit Card Company to you. That is not interest as there is no legal claim for that against the debtor.

Earning commission in trade and hoarding

Q: I hope you must be in good health. I am seeking fatwa in the situation below having two parts; please follow,

Part ONE

I have recently joined potato trading business in the city of Okara. They are basically commission agents which we usually call "aar'dti" in urdu. I have invested little money there. Over that investment they get a total 7% commission on every transaction which is done on 15 day turnover.

After every 15 days 1% is spent on expenses and the rest 6% is divided in two equal halves whereby i get 3%. This is a fix thing.

Actually from my money they buy the potatoes from the farmer on cash and pay him instantly and sells it in the market on a 15 day credit cycle where the buyer is supposed to give 7% commission having this credit facility, which in turns to be our profit.

I see there is nothing wrong in it as people have been doing this for ages but i still want to seek fatwa if this is O.K with shariah?

Part TWO

The above type of transactions runs only Six months a year. In the remaining Six months we STORE THE POTATO in cold stores. Actually fresh Potatoes are available only six months a year. In every part of the country it is a six month yield. In order to get it to the market all twelve months it is stored. So it is compulsory for a potato to be stored.

Now we store it as a normal practise. But when we store it, the price is reasonably low and when we see the market is

fair enough high we sell it, the gap between buy and sell is our profit. So there is one thing to be very clear that we store the potatoes from the perception that it will get high rates. Is this also O.K with shariah??

A:

1) We understand from your query that you invested X amount of money with a company. The company buys potatoes from the farmers and pay for it in cash. Thereafter the company sells the potatoes to the retailer on a higher rate and with a deferred payment. The profit mark up between the purchasing price and selling price is 7%. 1% is used for the expenses of the company and the remaining 6% is shared on a 50-50 ratio. Your question is if this is permissible.

It is permissible for you to enter into such an agreement. This will fall under the rules of *mudārabah*. i.e. one party contributes the money and the other party does the work and both share in the profits. Fixing 1% of the profits to be used for expenses of the company is an administrative issue. If the expenses of the business are more than 1% then the total amount of expenses could be deducted as *mudārabah* is sharing of profits after deduction of total expenses. If the expenses are lesser than 1% then the surplus amount should be included in the distribution of profits.²⁶

²⁶ المختصر للقنوري - (٢٦٩) - كتاب المضاربة

المضاربة : عقد يقع على الشركة في الربح بمال من أحد الشريكين وعمل من الآخر ولا تصح المضاربة إلا

2) If potatoes are available to the public and they are not being harmed by you storing it away it will be permissible for you to store it. If the general public are being harmed by you storing the potatoes away it will be *makruh* (detestable) for you to store them away and sell them when the prices have gone higher.²⁷

I cannot contact the person whose car I hit. How do I repay him?

Q: Yesterday I accidentally hit someone's car whilst reversing. I am not sure if I caused a scratch because the car I hit was very old. Although, this is a very likely chance I scratched this car.

I left a note in the car window saying that I hit the car

بالمال الذي بيننا أن الشركة تصح به ومن شرطها : أن يكون الرخ بينهما مشاعا لا يستحق أحدهما منه دراهم مساة ولا بد أن يكون المال مسلما إلى المضارب ولا يد لرب المال فيه

^{٢٧} اللباب في شرح الكتاب - (٧٠٥)

(ويكره الاحتكار) والتلقي (في أقوات الأدميين) كبر وشعير وقمر وتين وزبيب (والبهائم) كبن وقش (إذا كان ذلك في بلد يضر الاحتكار) والتلقي (بأهله) لحديث "الجالب مرزوق، والمحتكر ملعون" وإن لم يضر لم يكره (ومن احتكر غلة ضيعته أو ما جلبه من بلد آخر فليس بمحتكر) أما الأول فلائنه خالص حقه لم يتعلق به حق العامة، ألا يرى أن له أن لا يزرع، فكذلك له ألا يبيع، وأما الثاني فالمذكور قول أبي حنيفة؛ لأن حق العامة إنما يتعلق بما جمع في المصر وجلب إلى فنائها، وقال أبو يوسف: يكره؛ لإطلاق ما روينا، وقال محمد: كل ما يجلب منه إلى المصر في الغالب فهو بمنزلة فناء المصر محرم الاحتكار فيه، وعلى قول أبي حنيفة مشى الأئمة المصححون كما ذكره المصنف، تصحيح.

شرح منلا مسكين ٢٠٨/٢ ، الهدية العلانية ٢٨٨

please call me. I left my name and number. However, I have not heard back from the owner/driver of the vehicle I hit. I do not know where this person lives. I never asked anyone on the street, to avoid any confrontation.

My question is since I have not heard back can I give some money in charity with the intention of reward to the person I hit? This because I do not want to be blameworthy on day of judgement. Also how much sadaqah do I have to give, is it the amount of repair costs, or any amount in my own discretion?

A: We are pleased to receive your query. It is always a breath of fresh air to read someone with a pure conscience.

We take note that in such an accident, it is very easy to simply drive away, especially when the other car is so old that one cannot even judge if one has caused any scratch on it or not. It was correct of you to leave a note on the car with your contact details.

Many times gestures of courtesy are sufficient apologies. Perhaps, the driver of that vehicle also felt the same and decided the matter was trivial enough not to contact you about it.

If you had noted down his registration number, then you could locate him through that. However, under the circumstances what you did was to the best of your ability. If the car owner feels that you should pay for repairing the scratch on the car, it is now his responsibility that he

contacts you through your contact details. If he does not contact you then you are not liable for anything else.

The heart of a *mu'min* is such that it aches at the sense of causing harm to another human being. It is natural that you will still feel some discomfort in your heart. This is the sign of *Imān* and *Taqwā*. If you keep feeling the sense of guilt, then make abundant *istighfār* and give out any amount of *sadaqa* that will rest your heart at ease.

We pray that Allah accepts you in your endeavor to fulfil your *shar'ī* and moral rights and reward you abundantly for it. Ameen

Structuring the wages for an employee

Q: I have a question regarding salary structures and if the following method will be accepted according to the islamic principles. Can a salary/wage be structured in a way that its based upon a few conditions and not just a basic salary?

It is divided into 4 sectors that carry out the month end wage
for example :

1. R1000 as a basic salary bonuses/gift/incentive from the company if the following is carried out in good order will be paid at the companies discretion :
2. R1000 for punctuality if you at work at 8 am daily (not a min) after
3. R1000 for 100 % attendance

4. R1000 for behavior (no arguments at work)

If any of the above conditions (time/attendance/behavior) are not fulfilled or there is no improvement from the staff with regards to latecoming then the basic will be reduced by R500 monthly until they improve or show commitment at the end of the month the employee could leave with R4000 or less , depending on the companies discretion and the employees attitude .

If there are staff who persist on latecoming by 15 to 30mins daily can the R1000 for punctuality be deducted completely? is this method correct?

A: The structure has two components.

A) Salary

b) Gift

The first component is an obligation and has a legal right. When an employee provides a service, the employee is obliged to pay him the agreed salary. The employee has a legal right and claim to his salary.²⁸

The second component is a gift. A gift is voluntary gesture and has no legal right. If the donor offers the gift, it is his kindness. If he does not offer a gift, there is no claim against

²⁸ (هِيَ بَيْعٌ مِّنْفَعَةٍ مَّعْلُومَةٍ بِأَجْرِ مَعْلُومٍ) ... أَيُّ الْإِجَارَةِ اسْمٌ لِلْأَجْرَةِ وَهِيَ مَا أُعْطِيَ مِنْ كِرَاءِ الْأَجِيرِ وَقَدْ أُجِرَهُ إِذَا أُعْطَاهُ أَجْرَتُهُ وَالْأَجْرُ مَا يُسْتَحَقُّ عَلَى عَمَلٍ الْخَيْرِ (تبيين الحقائق شرح كنز الدقائق وحاشية الشلبي ١٠٥ / ٥)

him. The structure in reference is a combination of an obligation and a voluntary act.²⁹

If the basic salary is R1000, the employee is entitled to the R1000 at the end of the month. The employer has to pay the employee. If the employer refuses to pay; the employee has a legal claim against the employer.

Points 2, 3, and 4 of the structure are gifts based on performance, punctuality, attendance and behavior. The employer is morally bound to reward the employee. He is however not legally required to do so as it is a gift.³⁰

The structure may be implemented. However; the employer as well as the employee should know the implications of the first and second component to avoid any misunderstandings and disputes. If it is possible the employee may regard points 2, 3, and 4 as a salary structure which is suspended on his performance. This may lead to him claiming a right at the end of the month if he fulfills the requirements mentioned in 2, 3, and 4.

The deduction of the salary for late coming should be calculated according to time. For example if one is earning R10 000 for 20 days a month Monday to Friday at 8 hours per day. He is thus earning R500 day at a rate of R62.50 an hour. His salary should be deducted accordingly.

²⁹ وهي { الهبة } العَطِيَّةُ الْحَالِيَّةُ عَنْ تَقَدُّمِ الْإِسْتِحْقَاقِ (الاختيار لتعليل المختار ٤٨ / ٣)

³⁰ المرجع السابق

Too cold to do business! Duaa to be recited on a cold day

The following duaah should be recited on cold days:

لَا إِلَهَ إِلَّا اللَّهُ مَا أَشَدَّ بَرْدَ هَذَا الْيَوْمِ ، اَللَّهُمَّ اَجِرْنِي مِنْ زَمَهِرَةِ جَهَنَّمَ .

(رواه ابن السني - ٣٠٧ -)

*Laa ilaaha illallahu ma ashad da barda hazhal yawm , allahumma
ajirni min zamhareeri jahannam.*

Trans. "There is no deity but Allah, How severe is the cold
of today!

O Allah! Protect me from the severe cold of Jahannam"

Rasulullah I is reported to have said: " When a person recites this
supplication, Almighty Allah says to Jahannam : "Verily a servant of
mine has sought refuge in me from you, bear testimony that I have
granted him salvation from you "

(Ibnu Sunni # 307)

Hottest Deal!

Earn Millions in Seconds!

**Did you know you could turn the market place into a
place of earning reward?!**

Earn millions Plus a Palace in Paradise!

Don't lose out on this fabulous deal!

Sayyidunā `Umar (Radiyallāhu Ta`ālā `anhu) narrates
that Nabi (Sallallāhu `alayhi wasallam) said: Allāh will

record for the one who recites the following du`ā when entering the market place a million rewards and remove million evil deeds and elevate him a million stages.

Another narration has: Allāh will build a home for him in Paradise.

لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ لَهُ الْمُلْكُ وَلَهُ الْحَمْدُ يُحْيِي وَيُمِيتُ وَهُوَ حَيٌّ

Transliteration:

*Lā ilāha illallāhu waḥdahu lā sharika lahu labul mulku wa labul
hamdu yuhyī wayumītu waḥwa ḥayyul*

Translation:

There is none worthy of worship besides Allāh alone. He has no partner. To Him belongs all kingdom and to Him belongs all praise. He grants life and causes death. He is all living

لَا يَمُوتُ بِيَدِهِ الْخَيْرُ وَهُوَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ

Transliteration:

Lā yamūtu biyadiḥil khayru waḥwa `alā kulli shay in qadīr

Translation:

and never dies. In His hand lies all good and He has power over all things

(Tirmidhi 3428/9)

We urge all Muslims especially business men to learn this du`ā and recite it whenever in the market place. Also advertise it suitably to encourage all Muslims to invest in this magnificent deal.

Hazrath Maulana Yunus Patel Saheb rahmatullah alayh

HAZRATH MAULANA YUNUS PATEL SAHEB *rahmatullah alayh*

The demise of Hazrath Maulana Yunus Patel Saheb rahmatullah alayh has left a hollow and empty feeling in the hearts of multitude of people and have particularly shaken the hearts of the Ulama.

This clearly demonstrates how Hazrath rahmatullah alayh had touched the hearts of people in so many different ways. Apart from Hazrath rahmatullah alayh being an inspiration in taqwa and piety, he was more a pillar of strength for everyone in all spheres of life.

Hazrath Maulana rahmatullah alayh left the world with all his wealth of knowledge, experience and wisdom at a time when his leadership in the ranks of the Ulama is most needed. There is no doubt that many Ulama have a feeling of being orphaned with the demise of Hazrath Maulana Yunus Patel Saheb rahmatullah alayh.

The following hadith expresses the loss of the knowledge, wisdom and experience of the Ulama upon their demise.

'Abdullah bin 'Amr bin Al' As Narrated that I heard Allah's Apostle saying, "Allah does not take away the knowledge, by taking it away from (the hearts of) the people, but takes it away by the death of the religious learned men till when none of the (religious learned men) remains, people will take as their leaders ignorant persons who when

consulted will give their verdict without knowledge. So they will go astray and will lead the people astray."

(Sahih Bukhari #100 , Vol.1 Pg. 32)³¹

I am personally indebted to Hazrath rahmatullah alayh for activating me in the field of Fatawa. In the year 1993, Hazrath rahmatullah alayh requested me to take charge of the Fatwa Department of the Jamiatul Ulama Kwazulu Natal. It was Hazrath rahmatullah alayh's humility that he would even send Fatawa to me to answer. Ever since this sinful soul is engaged in the field of Fatawa with the order of Allah. All the Fatawa answered at the Jamiatul Ulama and elsewhere by this sinful soul are thawab e jaariya (perpetual reward) for Hazrath rahmatullah alayh insha'allah, Ameen.

I had the opportunity of serving the Fatwa Department of Jamiatul Ulama Kwazulu Natal for 8 years under Hazrath rahmatullah alayh's august presidency. Hazrath rahmatullah alayh was very sad at me leaving the Jamiatul Ulama Kwazulu Natal and relocating. Hazrath rahmatullah alayh's wisdom became manifest to me now.

In my relocation to Durban, Hazrath rahmatullah alayh was a source of strength, guidance and inspiration to me.

³¹ حَدَّثَنِي مَالِكٌ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو بْنِ الْعَاصِ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «إِنَّ اللَّهَ لَا يَقْبِضُ الْعِلْمَ انْتِزَاعًا يَنْتَزِعُهُ مِنَ الْعِبَادِ، وَلَكِنْ يَقْبِضُ الْعِلْمَ يَقْبِضُ الْعُلَمَاءَ، حَتَّى إِذَا لَمْ يُبْقِ عَالِمًا اتَّخَذَ النَّاسُ رُءُوسًا جُهَالًا، فَسُئِلُوا فَأَفْتَوْا بِغَيْرِ عِلْمٍ، فَضَلُّوا وَأَضَلُّوا» صحيح البخاري ٣٢ / ١

In the last few hours before Hazrath rahmatullah alayh left for Umrah on June 23, I spoke to him. He read out a letter to me in which a dream to the effect of the following was stated.

Rasululullah salallahu alayhi wasallam and the souls of the Ambiya were present. Hazrath Maulana Yunus Saheb rahmatullah alayh too was present. After stating this dream to me Hazrath rahmatullah alayh was overwhelmed. I requested him for duas and Hazrath rahmatullah alayh very generously made dua for me.

The above referred dream has become a reality. Hazrath rahmatullah alayh's rooh is with Rasulullah salallahu alayhi wasallam, Anbiyaa and Sulahaa.

May Allah elevate Hazrath rahmatullah alayh's status and grant him Jannatul Firdaus.

May Allah forgive us for our shortcoming for not fulfilling Hazrath rahmatullah alayh's rights and maqam, Ameen

Moon Issue in U.K destroying spirituality of Ramadhan and Eid

Q: Every year during Ramadhan and Eid, the differences on the moon issue surfaces which brings about enormous problems. Our Ramadhan and Eid get spoiled with the in-fighting. Ramadhan ought to be a month of spiritual upliftment and Eid, a day of enjoyment. We lose both; no spirituality and no enjoyment. What is your advise so that

we do not lose the rohaniyyat of Ramadhan and the enjoyment of Eid through in-fighting?

A: The academic opinions of the various Ulama on the moon issue in the U.K are well known. It was expected that such academic contributions would ultimately bear the fruits of making the correct decision.

Non co-operation and acrimony have been the stumbling block in making progress.

In academic issues, the mind must prevail over emotions. Disagreement should be in an agreeable manner.

When academic differences lead to acrimony, that is very un-academic. It becomes very difficult for people of dignity and honour to contribute any further to such a course.

To get caught in the web of acrimony and humiliating ones counterpart is counterproductive and detrimental to ones Imaan.

What was once supposed to be a pure academic issue is now an issue of ones Nafs and ego.

The only seeable solution for the time being is:

- Academic issues should be confined to the Ulama and Muftis who are expected to address these issues within their ranks with decorum and honour.
- The layman is not tasked by Shariah to engage on academic issues. They are ordered to follow their Ulama.

- When the Ulama differ, don't interfere. Never ever condemn any Alim or humiliate him.
- Simply place your trust in your Alim of trust and abide by his decision.
- There is no point in questioning his decision as you cannot be his judge.
- If anyone, be it your friend or family, places his trust in one Alim and abides by his decision, then respect his decision. If you care for your roohaniyat of Ramadhan or enjoyment of Eid, you will not confront him on his decision.

This approach will not eradicate the differences but will surely control the differences so that one does not lose the roohaniyat of Ramadhan and enjoyment of Eid in infighting.

Recommended Duaa to be recited on 15th of Sha'baan

As we approach the blessed night of 15th of Sha'bān, let us take full benefit of today and tomorrow and memorize this recommended du'ā'. Recite this du'ā' in abundance in the mubārak night

أَعُوذُ بِرِضَاكَ مِنْ سَخَطِكَ، وَأَعُوذُ بِعَفْوِكَ مِنْ عِقَابِكَ،
وَأَعُوذُ بِكَ مِنْكَ لَا أُخْصِي ثَنَاءً عَلَيْكَ أَنْتَ كَمَا أَثْنَيْتَ عَلَى نَفْسِكَ

I seek refuge in Your pleasure from Your annoyance, and I seek refuge in Your forgiveness from Your punishment, and I seek Your refuge

*from Yourself. I cannot praise You in the manner that You deserve.
You are exactly as You have defined Yourself.
(Shu'bul Imān lil Bayhaqī, #3557)*

*A 'ūdhu bi ridhāka min sakhatika, wa a 'ūdhu bi 'afwika
min 'iqābika wa a 'ūdhu bika minka lā ubsī thanā'an 'alayka anta
kamā athnyta 'alā nafsika*

Working as an Ultrasound Assistant

Q: Is it permissible to work as a Ultrasound Technician, for men?

Job

Description:

Ultrasound technicians use sound (sonic) waves to capture images of the internal organs and tissues for the diagnosis and treatment of medical problems. This medical field is called sonography. Utilizing specialized ultrasound equipment, the sonographer takes readings of the appropriate areas and angles as requested by the physician, and sends them back for interpretation. Unlike other diagnostic imaging systems that function using radiation, ultrasound is completely safe for both the ultrasound technologist and the patient. Most ultrasound techs work in hospitals or diagnostic imaging centers, and are in good physical condition in order to maneuver patients during ultrasounds.?

A: It is permitted for a male to work as an ultrasound technician; however, he should keep in mind that he is only permitted to look at and/or to touch the aurah of another

person if there is a genuine need such as to diagnose a medical condition. In the absence of a genuine need he will not be permitted. In the case of a female patient, it is preferable that a female technician performs the scan; however, if the ultrasound involves looking at or touching her private part, then it is compulsory that a female does it. A male will not be allowed to perform the scan in this case unless there is no other option available.

(Ad durrul Mukebtaar Vol. 9 Pg. 619-611)

Note: The aurah of a man is from the navel upto and including the knees, and that of a female is her whole body except for her face and hands. However, a man is not permitted to touch even the face and hands of a ghair mahram female unless there is a genuine need.

Fatwa confirmation for Sealskinz socks.

Q: These are some of the messages that are doing the rounds - together with my responses in ***bold***.

1. “The product is not jaaiz because it is impermissible to kill Seals”

(the product is NOT made with any animal skin – only wool is used.)

2. Slms, I received this from Mufti Motara’s son with regards to the seal skinz & reef moza's:

Some mufti's have sanctioned it and we respect their views. However, someone took both the Reef and Sealskin socks to India last year and showed it to Mufti Farooq of Meerut, who said that it is not permissible to make masah on these socks. Mufti Farooq asked the opinion of other Mufti's as well and they all said that it was not permissible. Mufti Khanpuri said that he will not forbid someone from making masah on them but he himself has not used them for masah. Since seeing that Salaah is such an important Ibaadah, it would be advisable to abstain from using these socks for masah especially when so many Mufti's in India did not approve of it, thus creating a doubt about its validity.

3. “Also, because the product is no longer made in UK, it is made in China, that's why the quality isn't good anymore, hence it is not jaaiz” –

(Sealskinz socks have always been made in the UK and continue to be made in the UK – I have personally visited the factory and made my own sock on the production line. Someone has imported the imitation / fake socks from China and it seems the problem is with those ones)

**Wassalaam
General Manager
MIS Distributors**

A: I spent a considerable amount of time in personally examining Sealskinz Socks to ensure that the socks

represent the criteria set down by our Illustrious Fuqha for the validity of making masah on leather socks.

My fatwa is only on the sealskinz product distributed by MIS Distributors. I did not see the Reef socks or imitation product of the sealskinz from China.

I confirm having reviewed my previous fatwa on sealskinz and still maintain the same view.

Attached in my previous fatwa.

Q) What is your view regarding making Masah on Sealskinz socks. Do they fulfil the sharii requirement of masah?

A: In order for it to be permissible to wipe on non-leather socks, it is imperative to fulfil all the conditions of leather socks. After thoroughly studying the inherent qualities of leather socks, our illustrious Fuqaha suggest that non-leather socks should resemble leather socks in the following:

1. They should entirely cover both the ankles.
2. They should be durable enough that a person can walk with the sock for three miles without them tearing.
3. Both socks should independently be free from holes to the extent of three small toes.
4. The socks should remain on the leg without it being tied or fastened.
5. They should be such that water does not seep through them.

[Al Mabsoot lil Sarakhsi (1/18, 184 Dar al Fikr), Al Muheet al Burhani (1/343, Al Majlis al Ilmi), Ahkam al Quran lil Jassaas

(3/440, *Dar al Kutub al Ilmiyyah*), *Tuhfa al Mulook* (1/33, *Dar al Bashaair al Islamiyyah*), *Majma al Anbur* (1/75, *Dar al kutub al Ilmiyyah*), *Al Bahr ar raaq* (1/191, 192 *Dar al Ma'rifah*), *Tabyeen al haqaaq* 1/52 *Dar al kutub al Ilmiyyah*), *Al Fatawa al Hindiyyah* (1/32, *Dar al fikr*), *Ad Dur al Mukehtaar* (1/269, *Dar al fikr*), *Tuhfa al Ahwadhi* (1/278, *Dar al kutub al Ilmiyyah*), *Al Maslak adh Dhaki* (1/29, *Wajidi Publishers*), *Fatawa Mahmoodiyyah* (5/195, *Farooqiyyah*), *Fatawa Haqqaniyyah* (2/216, *Dar al Uloom Haqqaniyyah*), *Kifayah al Mufti* (2/321, *Farouqiyyah*), *Fatawa Darul Uloom Zakariyyah* (1/509-5516, *Zam Zam Publishers*)³²

We have personally examined 'sealskinz' socks and are satisfied that they fulfil all the above-mentioned conditions. One can refer to their website to see the full durability of these socks. **Hence, it is permissible to use 'sealskinz' socks as leather socks and make masah on them.**

³² (كتاب الحجة علي أهل المدينة - (ج ١ / ص ٤٤ عالم الكتب) ينبغي لمن قاس علي السنة و الآثار أن يقيس علي السنة ما لم يأت فيه أثر لما قد جاءت فيه الآثار مما يشبهه (بداية المجتهد- (ج ١ / ص ٥٢ دار الاسلام) و من صح عنده الأثر أو جوز القياس علي الخف أجاز المسح علي الجوربين

شرح فتح القدير - (ج ١ / ص ١٥٧ دار الفكر) لا شك أن المسح علي الخف علي خلاف القياس فلا يصلح إلحاق غيره به إلا إذا كان بطريق الدلالة وهو أن يكون في معناه ومعناه الساتر محل الفرض الذي هو بصدد متابعة المشي فيه في السفر وغيره للقطع بأن تعليق المسح بالخف ليس لصورته الخاصة بل لمعناه للزوم الحرج في التزع المتكرر في أوقات الصلاة خصوصاً مع آداب السير

Duaa to be recited at the approach of Ramadhan

Hadhrat Ubaadah bin Saamit (Radi Allahu Anhu) narrates that Rasulullah (Sallallahu Alayhi Wasallam) used to teach the Sahaabah (Radi Allahu Anhum) the following Dua at the approach of the Month of Ramadhan:

اَللّٰهُمَّ سَلِّمْ لِيْ رَمَضَانَ وَسَلِّمْ لِيْ مُمْتَبِلًا

*Allahumma Sallimnee Liramadaana Wa Sallim Ramadaana
Lee Wa Sallimbu Mutaqabbala*

“O Allah! Safeguard me for the Month of Ramadhan (by making me see the Month of Ramadhan healthy and fit so that I can take maximum benefit from it), and safeguard the Month of Ramadhan for me (by making the conditions in it such that I can take maximum benefit from it) and accept it from me.”

(Kanz-ul-ummal, Vol.8, Pg. 584 Hadith 24277)

Every Muslim should endeavor to memorize this dua and recite it in abundance in these few days before Ramadhan.

Late payment penalties and charges on debts

Q: If an amount of let's say R100,00 is owed to me. I then hand over this debt, for collection to a debt collection agency, who will then charge me a 25% collection fee of all the money they collect. Let's say they do collect the full R100,00 - the agency would pay me only R75,00. Would it be permissible to rather tell the agency that the client owes me R133.34, such that when they collect this R133,34 and deduct their 25% then I would still receive my original

R100,00 owing to me and not loose out the R25,00 if they were to collect on R100,00?

A: In principle, it is incorrect to claim any amount more than your debt.

However, as an alternative, we suggest you enter into an agreement with your debtors that in the event of the debt not being repaid, you (the company) shall hire a debt agency to recover the debt. Any costs in this regard will be borne by the debtor, not by the company.

Compensation for inability to fast due to illness. Qaza or Sadaqa?

Q: Due to my mother's illness, she cannot fast. Is there any way for her to repay for her fast? For example a Zakah she should pay.

A: If your mother is experiencing such an illness that she is unable to fast, due to her deteriorating health, then she will be excused from fasting. If she is expected to recover from her illness, then she has to make up (Qadhaa of) these missed fasts.

However, if the sickness is permanent and there is no hope of recovery then she must offer fidya (monetary compensation) for every missed fast.

The value of this Fidyah is the same as Sadaqatul fitr, which is the value of 1.6 kg of wheat or **3.2 kg of barley**. The present average value of 1.6kg of wheat is R17.00 .

(Bahishti Zewar Vol. 3 Pg 20 ; Haashiya Tahtawi ala maraqi al falah Pg 688)³³

Wife and her demands! Where to draw the line.

Q: I know islaamically its encouraged to spend on ones family and the reward you get is like that of giving sadaqah at the same time in Islaam its encouraged not be extravagant and not to be wasteful , allah assist me with this I find it very hard where to draw the line between the 2 of them can you maybe help

Example : a persons wife maybe have 10 pairs of shoes , and now she asks for another pair , even though you do have the money but you refuse to buy saying that we wasting , am I right by doing this in the sense that we wasting ? or should I still be open hearted and buy that pair? i don't mind spending if my family requires food or medical assistance , but when it comes to the matter of clothes I feel that we have so much clothes and we still buying more like this we being wasteful?

A: Islam emphasizes a simple lifestyle that does not put a

³³ أن المريض إذا تحقق اليأس من الصحة أي صحة يقدر معها على الصوم فعليه الفدية لكل يوم (حاشية الطحاوي على مراقي الفلاح شرح نور الإيضاح ص: ٦٨٨)

burden on the society nor on the environment because a wasteful, extravagant life leads to a number of problems:

- It makes it difficult for the poor because they will feel compelled to imitate the rich in order to “keep up appearances.”
- Customs are invented and maintained to show off wealth, such as at the time of weddings. This puts a burden on those who do not have enough to provide the same.
- Resources of the Earth are depleted at a rapid and unsustainable pace to cater to the whims of the rich while the poor struggle to get decent food, clothing and shelter.

The key to a simple, content lifestyle is to avoid *isrāf* which means to cross the limit by spending beyond need on an occasion where it is permissible to spend.³⁴ ³⁵Need is determined by use, so if you buy an item that you will not use or will use only once or twice, it will be *isrāf* since lack of utilization is an indication that you spent on that object beyond need. Some items by their nature are meant to be used only once such as a fire extinguisher, so the nature of the item should also be taken into consideration if its use is meant to be only once or twice – as in the case of an emergency.

If all bought items are regularly utilized or the older items are given away then this will not fall under *isrāf* as long as a person fulfills the following conditions:

³⁴ معارف القرآن، ٥ / ٤٨٩ مكتبة دار العلوم كراتشي

³⁵ السرف والإسراف مجاوزة القصد...والسرف تجاوز ما حد لك...أسرف الرجل إذا جاوز الحد سان العرب، ٩ / ٤٨١ دار صادر بيروت

1. He is thankful to Allah for what he has.
2. He is neither arrogant nor boastful about his possessions.
3. His spending on himself and his family does not prevent him from giving to the poor and other avenues of charity.

Allah says:

“....and eat and drink and do not be extravagant. Surely, He does not like the extravagant.”

(Surah Al-Araf, 31)

The commentators of the Quran have said that *israf* is not limited to eating and drinking only but also applies to clothing, living accommodations, and almost every aspect of life.³⁶

With regards to the above verse, it should be kept in mind that women have more of a tendency towards articles of beauty (clothes, shoes, etc.) so their lifestyle differs from males in this regard. As a result women naturally accumulate more clothing and shoes than males. If a person's wife will regularly use the shoes or she will donate her older ones in charity then purchasing additional pairs will be permissible, even if not in conformity with the ideal, simple lifestyle.

³⁶ - ثم اختار ابن جرير قول عطاء: إنه نهى عن الإسراف في كل شيء. ولا شك أنه صحيح، لكن الظاهر والله أعلم - من سياق الآية حيث قال تعالى: {كُلُوا مِنْ ثَمَرِهِ إِذَا أَثْمَرَ وَآتُوا حَقَّهُ يَوْمَ حَصَادِهِ وَلَا تُسْرِفُوا [إِنَّهُ لَا يُحِبُّ الْمُسْرِفِينَ] } أن يكون عائداً على الأكل، أي: ولا تسرفوا في الأكل لما فيه من مضرة العقل والبدن، كما قال تعالى: { وَكُلُوا وَاشْرَبُوا وَلَا تُسْرِفُوا [إِنَّهُ لَا يُحِبُّ الْمُسْرِفِينَ] } [الأعراف : 31] ، وفي صحيح البخاري تعليقا: "كلوا واشربوا، والبسوا وتصدقوا، في غير إسراف ولا مخيلة" وهذا من هذا، والله أعلم - تفسير ابن كثير، ٣/ ٣٥٠ دار طيبة للنشر والتوزيع

A husband can start by gradually emphasizing to his wife the beauty of simple living and the joy of being content with what one already has. This can be done in a few ways:

- You can ask her to part with one or more of the older pairs of shoes and give them in *sadaqah* (charity) to those less fortunate than her. The same can be applied to clothing and other such items.
- You can ask her to sell the older items and donate that money in *sadaqah*.
- You can begin reading the book, *Fadhail Sadaqah* for a few minutes daily to instill in family members the spirit of giving and sharing so that they are saved from committing *israf*.
- You can read from books that talk about how simple the lives of our pious predecessors (men and women) were and how they were fully content in spite of having very few possessions.
- Before making any purchases, you and your family should keep in mind that on the Day of Judgment we will be accountable for how we spent our wealth.

Insha-Allah, these methods will save one from committing *israf* and make one content with a simple life.

Giving out Zakat to one's sister.

Q: Can one give zakat to his sister and Can this be given to her without her knowledge.

A:

1. Giving zakāh to one's poor family (brother, sister etc.) is commendable and liable for extra reward. It is mentioned in a hadīth that by giving charity to one's relatives one receive double a reward, one reward for giving charity and the other for showing kindness to them.

2. Yes it is permissible; it is not necessary to mention, zakāh will be discharged by merely making the intention of zakāh.

(*Bahisti Zewar, Pg.346, Zam Zam*)

Qadha' for Sajda Tilawats

Q: If a person passed away and he had sajda tilawaats that has not been performed ,how will the family repay it?

A: When one recites a verse of sajda of the Qur'ān or hears such a verse, it is wājib (compulsory) to make *Sajdah tilawah*.³⁷

It is *makruh* (disliked) to delay *Sajdah Tilawah*.³⁸

³⁷ (يَجِبُ) بِسَبَبِ (تِلَاوَةِ آيَةٍ) (الدر المختار وحاشية ابن عابدين (رد المختار) ٢ / ١٠٣)

³⁸ وَيَكْرَهُ تَأْخِيرُهَا تَتَرْتِيبًا (الدر المختار وحاشية ابن عابدين (رد المختار) ٢ / ١٠٩)

If one did not fulfill his/her *wājib Sajdah Tilāwah* in ones lifetime, and passes away, there is no *fidyah*(compensation) for the missed *Sajdah Tilāwah*. The family should make Istighfar on behalf of the deceased.³⁹

(*Imdadul Fatawa, Vol 1 Pg 559,*
Idārah Tālīfāt e Auliya, Deoband)

Importance of ZamZam Water

Zam-zam water is one of the many signs of Allah Ta'ala. Zam-zam enjoys a lot of virtues and blessings. Below are some virtues:

1. Zam-zam water is from jannah (paradise).
2. Zam-zam is the best water on earth.
3. Zam-zam is a cure for every sickness.

Sayyiduna Ibn Abbās radiallahu anhu reports that Nabi salallahu alayhi wasallam mentioned:

عن ابن عباس رضي الله عنهما قال قال رسول الله صلى الله عليه وسلم خير ماء على وجه الأرض ماء زمزم فيه طعام الطعم وشفاء السقم (الطبراني ج ١١ ص ٩٨ مكتبة ابن تيمية)

The best water on the surface of this world is zam-zam. In it is food for the hungry and cure for the sick.

(*Tabarāni 11/98 Maktabah Ibn Taymiyyah*)

Nabi sallahu alayh wasallam used to fill Zam-zam in water bags and sprinkle over the ill and give them to drink.

³⁹ وَلَا يَجِبُ عَلَى الْمُحْتَضِرِ الْإِصْبَاءُ بِهَا (الدر المختار وحاشية ابن عابدين (رد المحتار) ١٠٣ / ٢)

4. The blessed saliva of Nabi sallahu alayh wasallam is mixed in Zam-zam. Sayyiduna Ibn Abbās radial ahu anhu reports that Nabi sallahu alayh wasallam relates that Nabi sallahu alayh wasallam came to the well of Zam-zam so we drew out a bucket of water. Nabi sallahu alayh wasallam drank some water and spat out some back in the bucket. We poured the bucket back into the well. (Ahmad Hadith no.3527)

5. Sayyiduna Jabir radial ahu anhu reports that Nabi sallahu alayh wasallam said:

جابر بن عبد الله يقول سمعت رسول الله صلى الله عليه وسلم يقول (ماء زمزم لما شرب له) (سنن ابن ماجه رقم الحديث ٣٠٦٢)

Zam-zam is for what it is drank. (i.e. whatever intention/ dua is made when drinking Zam-zam it will be fulfilled).

(Ibn Majah hadith no.3062)

6. Drinking a lot of Zam-zam is a sign of Imān and disliking Zam-zam is a sign of hypocrisy.

عن ابن عباس رسول الله صلى الله عليه وسلم قال (إن آية ما بيننا وبين المنافقين أنهم لا يتصلعون من زمزم) (سنن ابن ماجه رقم الحديث ٣٠٦١)

Sayyiduna Ibn Abbās radial ahu anhu relates that Nabi sallahu alayh wasallam mentioned:

“The difference between us and the hypocrites is that they do not drink a lot of Zam-zam.

(Ibn Majah hadith no.3061)

(Taken from the book Fadhlul Ma'iz Zam-zam).

Despite all these virtues of Zam-zam it is permissible for non-Muslims to drink of it. Upto one year after the conquest of Makkah Mukarramah non-Muslims were permitted to go for hajj and umrah. It is obvious that they too used to drink Zam-zam water.

(Kitābul Fatāwā 4/ 82)

One should explain them that this is sacred water hence it should be respected and used accordingly.

Discharging Zakat on Trade Goods

Q: I am writing to enquire about Zakaat. My brother and I have a small business of mobile phones we purchase phones and re sell them. Each year we take zakaat out on the goods as well as all the business money. I want to know a few things,

1. Is zakaat payable on goods and money having had the goods and money for 1 whole year or is it payable even if goods and money were acquired in shabaan and we discharge our zakaat every Ramadhan? so do we wait a whole year or simply discharge zakaat every ramadhan based on what we have in regards to goods and money every ramadhan?
2. Do we discharge zakaat on the goods on the amount they were bought for or do we discharge it for the amount we anticipate to sell them for?
3. During ramadhan we discharge parts of our zakaat on a daily basis throughout ramadhan, by the end of ramadhan we have discharged our zakaat, is this valid?

A:

1) Zakat is payable on the goods, money, gold and silver that are in your possession on your "Zakat day" even if they came into your possession a few days before your "Zakat day". Your "Zakat day" is that day of the year (according to Arabic calendar, not Gregorian calendar) on which you first became the owner of nisab (value of 612.35 grams of silver).

For example if the first time you ever became the owner of money equal to the nisab or more was on the 10th of Ramadan, then your "Zakat day" is the 10th of Ramadan i.e. you will calculate your Zakat based on the goods, money, gold and silver that are in your possession on the 10th of Ramadan every year.

2) Zakat is payable on the market value of goods i.e. the amount that they can be sold for.

3) That is fine but the Zakat amount has to be calculated based on the zakatable assets that were in your possession on your "Zakat day" as mentioned in the first answer.

Working as a delivery man for a Pizza Store selling pork

Q: I am living in UK. I am doing full time job as a Web Developer. But, now as my father is retired and doing no job so from my salary I have to send them money. My salary is a bit short according to my expenses so I want to do part-time job but the problem is that where ever I find job does involve HARAM stuff like if I want to work in any supermarket (like Sainsbury, TESCO, ALDI or any Petrol station/Garages etc) they sell Alcohol and HARAM foods which we have to serve/Scan when you are on TILL. Secondly, if I want to do Food Delivery Job like in Pizza Shop (Dominos etc) they sell Pork in PIZZA. Let me tell you one more thing I do have some savings (that I was saving every month for my family like for kid's higher studies or etc but now obviously not saving) and every month I have to take money out from my savings. So, my question is that can I do any work that I mentioned above

in this Circumstances to full fill my expenses every month so that I don't have to take money out from my savings.

1) Can I do Delivery Work in PIZZA shop that sell pork in PIZZA?

2) Can I do work as Sales Assistant where I have to scan Alcohol or HARAM food (like PORK etc) on the TILL?

A: In most stores, a person is paid for making themselves available to carryout work, not for the actual work itself. For example, the employee is paid the same regardless of how much work needed to be completed or was actually completed on a particular day. In fact, on a slow day at the store, if the employee has no work to do, he is still paid regardless.

Therefore, when a person works at the store, his pay is not from the actual scanning of items at the cash register or from the deliveries. Rather, he is paid for his time he dedicated to the store to carryout whatever work he is asked to perform.

Hence, even though the actual act of scanning the alcohol or delivering harām food is not proper, his income is still completely halāl. However, while continuing his employment at the store where he has to perform such actions, he should still actively look for employment where he will not fall into such predicaments, such as working as a clothing store, for example.

Du'aa at the time of iftaar

Du'aa at the time of Iftaar

Sayyidunā `Abdullāh ibn `Amr (Radiyallāhu Ta`ālā `anhu) narrates that I heard Nabi (Sallallāhu `alayhi wassalam) saying: A fasting person has an accepted du`ā (prayer) at the time of iftār (time when he breaks his fast).

It was the habit of Sayyidunā `Abdullāh ibn `Amr (Radiyallāhu Ta`ālā `anhu) to call his wife and children at the time of iftār and make du`ā.

Ibn Mulaykah (Rahimahullāh Ta`ālā) mentions that I heard Sayyidunā `Abdullāh ibn `Amr (Radiyallāhu Ta`ālā `anhu) making the following du`ā when he broke his fast:

اَللّٰهُمَّ اِنِّیْ اَسْأَلُكَ بِرَحْمَتِكَ الَّتِیْ وَسِعَتْ كُلَّ شَیْءٍ اَنْ تُغْفِرَ لِیْ

Allahumma inni As-aluka Bi-Rahmati kallati Wasi'at Kulla

Shai'in An Taghfirlee

O Allāh! I ask You through Your all encompassing mercy to
forgive me

(Tafsīr Ibn Kathīr 1/509)⁴⁰

⁴⁰ تفسیر ابن کثیر - (۱ / ۵۰۹)

كما رواه الإمام أبو داود الطيالسي في مسنده: حدثنا أبو محمد المليكي، عن عمرو -هو ابن شعيب بن محمد بن عبد الله بن عمرو، عن أبيه، عن جده عبد الله بن عمرو، قال: سمعت رسول الله صلى الله عليه وسلم يقول: "للصائم عند إفتاره دعوة مستجابة". فكان عبد الله بن عمرو إذ أفطر دعا أهله، وولده ودعا

Some clarifications related to Tableegh Jamaat

Q: I pray that you are well in this blessed month. Can you or a Tablighi Aalim provide answers to these questions please? Here Tabligh is referred to the, 4 months/days, mashwera, ghush ...etc Tabligh.

1. Is Tabligh the only way for self rectification?
- 1a. Is Tabligh the only way to get to close to Allah swt?
2. Must everyone go to Tablighi Jamaat?
3. Is Tabligh the most effective way for dawah?
4. Allah (swt) says in the Holy Quran: "And let there among you be a group of people who invite to all that is good, who enjoin what is right and forbid what is wrong." (3:104), is this referring to Tabligh or general dawah? Why only a group and not everyone?
5. When did Tabligh begin?
6. When Tablighi's talk about sacrifice and effort, generally speaking how much sacrifice/effort must a person make?

A:

1. Is Tabligh the only way for self rectification?

Tazkiya (self rectification) is one of Islam's major fields. While we have been commanded to make our actions according to Qur'an and Sunnah, we have also been

وقال أبو عبد الله محمد بن يزيد بن ماجة في سننه: حدثنا هشام بن عمار، أخبرنا الوليد بن مسلم، عن إسحاق بن عبيد الله المدني، عن عبد الله بن أبي مليكة، عن عبد الله بن عمرو، قال: قال النبي صلى الله عليه وسلم: "إن للصائم عند فطره دعوة ما ترد".. قال عبد الله بن أبي مليكة: سمعت عبد الله بن عمرو يقول إذا أفطر: اللهم إني أسألك برحمتك التي وسعت كل شيء أن تغفر لي

commanded to instill sincerity (ikhlas) in our hearts. Allah Ta'ala has in fact mentioned that one who rectifies himself has without a doubt succeeded for hereafter.

قَدْ أَفْلَحَ مَنْ تَزَكَّى

He who purifies himself has certainly succeeded.

(*Qur'an* 87:14)

For such an integral aspect of deen, Allah Ta'ala has given different means for its accomplishment, such as Tasawuf, Ilm and Tadrees, Da'wah etc. Tabligh Jamāt is just one of many such forms of self-rectification.

At the same time, in a global village it is not easy for everyone to harness the true potential of any one of these means to attain self rectification. Allah Ta'ala has blessed Tabligh Jamaat with such a worldwide acceptance with its core characteristics revolving around Ikhlas and Tazkiya, that it can easily be termed as one of the most easily accessible form of Da'wah as well as gaining proximity towards Allah.

1a. Is Tabligh the only way to get to close to Allah swt?

No, Tabligh is one of many forms of gaining proximity of Allah. While that is the case, Tabligh Jamat does offer a variety of different characteristics which are an integral in gaining Allah's proximity.

2. Must everyone go to Tablighi Jamaat?

Every person can engage in the work of Tabligh Jamat. The purpose is to connect oneself to Allah Ta'ala in whatever

way or form. It is not necessary to connect oneself through only one medium.

At the same time if one is involved in one field, one should not look down at the other fields. The acceptance of one's efforts is in the hands of Allah and not in certain specific field of the effort.

3. Is Tabligh the most effective way for dawah?

Tabligh Jamat is indeed one of the most potent forms of Da'wah in current times. All it requires is for one to spend time. There are other forms of da'wah as well, but the acceptance and outreach which Allah has afforded to Tabligh Jamat is hardly matched.

4. Allah (swt) says in the Holy Quran: "And let there among you be a group of people who invite to all that is good, who enjoin what is right and forbid what is wrong." (3:104), is this referring to Tabligh or general dawah? Why only a group and not everyone?

The Ayah refers to all those who are striving to spread the deen of Allah. Tafsīr ibn Kathīr mentions under the Ayah (3:104):

Ad-Dahbāk mentioned, "These are a special group of the Companions and a special group of those after them, that is those who perform Jihad and the scholars." Abu Ja'far Al-Baqir said that Rasulullah salallahu alayhi wasallam recited the verse "And let there among you be a group of people who invite to all that is good" and then said, "The Khayr is following of Qur'an and my Sunnah".

The objective of this Ayat is that there should be a group in this Ummah fulfilling this task, even though it is also an obligation on every member of this Ummah, each according to his ability. Muslim recorded that Abu Hurayrah said that the Messenger of Allah said,

«مَنْ رَأَى مِنْكُمْ مُنْكَرًا فَلْيُغَيِّرْهُ بِيَدِهِ، فَإِنْ لَمْ يَسْتَطِعْ فَبِلِسَانِهِ، فَإِنْ لَمْ يَسْتَطِعْ فَبِقَلْبِهِ، وَذَلِكَ أَضْعَفُ الْإِيمَانِ»

(Whosoever among you witnesses an evil, let him change it with his hand. If he is unable, then let him change it with his tongue. If he is unable, then let him change it with his heart, and this is the weakest faith.)⁴¹

It is evident from this Tafsir that the duty is not solely for one group, rather for everyone. However the Ayah suggests that one group should specialize in this field.

We can understand it from an aspect of a corporate business. The company will have many different departments. Every department will be excelling and specializing in their fields, like Marketing, Accounting, Research and Development etc. Every individual within these different department may specialize in their particular field, but at one level or another they all promote that

⁴¹ قَالَ الصَّحَّاحُ: هُمْ خَاصَّةُ الصَّحَابَةِ، وَخَاصَّةُ الرُّوَاةِ يَفْعِي الْمَجَاهِدِينَ وَالْعُلَمَاءَ، وَقَالَ أَبُو جَعْفَرٍ الْبَاقِرُ، قَرَأَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: {وَلْتَكُنْ مِنْكُمْ أُمَّةٌ يَدْعُونَ إِلَى الْخَيْرِ} ثُمَّ قَالَ: «الْخَيْرُ اتِّبَاعُ الْقُرْآنِ وَسُنَّتِي» (أَخْرَجَهُ ابْنُ مَرْدَوَيْهِ) وَالْمَقْصُودُ مِنْ هَذِهِ الْآيَةِ أَنْ تَكُونَ فِرْقَةٌ مِنْ هَذِهِ الْأُمَّةِ مُتَّصِدَّةً لِهَذَا الشَّانِ، وَإِنْ كَانَ ذَلِكَ وَاجِبًا عَلَى كُلِّ فَرْدٍ مِنَ الْأُمَّةِ بِحَسْبِهِ كَمَا تَبَيَّنَ فِي صَحِيحِ مُسْلِمٍ عَنْ أَبِي هُرَيْرَةَ قَالَ، قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ رَأَى مِنْكُمْ مُنْكَرًا فَلْيُغَيِّرْهُ بِيَدِهِ، فَإِنْ لَمْ يَسْتَطِعْ فَبِلِسَانِهِ، فَإِنْ لَمْ يَسْتَطِعْ فَبِقَلْبِهِ، وَذَلِكَ أَضْعَفُ الْإِيمَانِ» [مختصر تفسير ابن كثير ٣٠٦/١]

company. They all market for the goal of that company. However, this does not diminish the specialized department of Marketing itself. Similarly in our deen, those who specialize in the field of Da'wah and Tabligh will carry out the commands of spreading deen with much more vigour than those exerting their energies in other fields.

A muslim doctor would carry out his obligation Tableegh and Da'wah towards his patients as well as carrying out his civic duty to look after their health as well. Such a person is also part of this group mentioned in the Ayah, but his role will not be as encompassing as the person who has taken out time especially for the field of Da'wah. Similarly, an Alim will carry out all his obligations along with disseminating knowledge to the masses. This will be his way of fulfilling this Ayah's obligation and being written among this special group.

5. When did Tabligh begun?

Mufti Abu Yahya Saheb has given a brief account about Tabligh Jamat in his detailed response. Please read :<http://www.askimam.org/fatwa/fatwa.php?askid=16332e682fc01b61c002a9ba9e9d1bf5>

6. When Tablighi's talk about sacrifice and effort, generally speaking how much sacrifice/effort must a person make?

As a principle, rewards in the path of Allah are according to ones sacrifice. One who will sacrifice more is worthy of more reward from Allah. In history Sahaba and our pious

elders radiallahu anhum have spent their lives in spreading the deen of Allah.

However, we cannot expect that all the ummah will be able to spend so much time and efforts towards this particular cause of deen. For this reason Tableegh Jamat has set out a system whereby every individual can exert to the extent of his own capacity and spend as much time and effort as possible.

Special Eid Message from Mufti Ebrahim Desai

The concept of celebrating in Islam is based on a religious achievement.

All the conjunctions of Shariah are narrowed down to one thing – Taqwa. Alhamdulillah, Allah put us through a spiritual exercise to achieve taqwa. Make shukr to Allah for this great bounty.

Now is the challenge to exercise taqwa. Keep away from all sins and preserve this most precious gift of taqwa. It is only then will we enjoy the true recognition of Allah and gain His wilaayat (friendship).

عيد سعيد
تقبل الله منا و منكم

- *Mufti Ebrahim Desai*

Is it permissible to use Facebook?

Q: I am a student of Deen and want to learn and spread Islam. I use the internet extensively for this purpose. Also, because I am studying computer sciences, I spend most of my time on computers checking my mail etc. I was a facebook user until a year ago. I deactivated my account because our ulama wanted us to, based on the blasphemous events that took place in it.

But now, a year or so after this incident, I see a lot of people who seem to be very pious and are daa'ees of Islam using it for the sake of da'wat. Many of my friends and relatives also use it to share things even after being told not to. So if I send them any e-mails, most of them go unread. I think and hope that if I use facebook to share Islamic things with them it would be beneficial for them. And, secondly, I would be able to see what my relatives and friends are up to so that I may think and care about them.

So I want to ask you if I can use facebook for the sake of spreading Islamic awareness and to know what my friends and relatives are up to as I see no other available way. I will be very grateful if you could guide me on this.

A: You mentioned that you want to spread Deen and raise awareness of Islam. We commend you for this intention and pray that Allah, the Almighty gives you the ability to do so. However, you also mentioned that you would like to try and do this on facebook, a website based on the intermingling

of the sexes and communicating with *non mahram* ⁴² people, which, unfortunately, some Muslims nowadays don't consider to be a sin. They consider it to be the 'norm' and say that there's nothing wrong with it.

Allah, the Almighty says in the Quran:

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ. ذَلِكَ أَزْكَىٰ لَهُمْ. إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ

"Tell the believing men to reduce [some] of their vision and guard their private parts. That is purer for them. Indeed, Allah is acquainted with what they do."

(Qur'an 24:30)

This ayah is not restricted to the men because further on Allah gives women the same order.

وَقُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا. وَلْيَضْرِبْنَ بِخُمُرِهِنَّ عَلَىٰ جُيُوبِهِنَّ

And tell the believing women to reduce [some] of their vision and guard their private parts and not expose their adornment except that which [necessarily] appears thereof and to wrap [a portion of] their head covers over their chests

(Qur'an 24:31)

If we look at the state of the Muslim youth nowadays, we will see that they have become so modernised that intermingling has become common until the extent that the Muslim girls do not even cover their heads let alone their faces and they freely misbehave, joke and interact with the

⁴² **A non mahram is that person with whom marriage is permissible**

opposite gender. Then friends take pictures of these people and upload them on facebook just so all their other friends and relatives can see the pictures which is obviously wrong.

Also you mentioned that your family and friends 'share' things on facebook. When you flick through their photo albums, you will inevitably see people who may or may not be their mahaarim, but they certainly won't be yours. And even if you don't go through their photo albums, when you look at their 'walls', the profile pictures of all the non mahram people that post on their wall will be visible to you. At first, you may have the power to control yourself and not interact and communicate with them, but over a period of time you will start to. (You cannot place butter in a hot pan and claim that it won't melt).

Some people may claim that merely looking at a photo of someone else is not harmful as long as one isn't interacting with that person. There is a saying that 'butter next to fire will melt. Every person knows that they have their base desires. The uncontrollable attraction to the opposite sex. And what guarantee does one have that he will stop at just viewing the photo? That he won't feel like interacting with the girl in the picture. That because the girl in the picture has put on make up to try and make herself look more beautiful, he won't start to lust after her and comment on the picture and eagerly await a reply. And then when he feels the moment is right, he'll send a friend request?! And the more friends you have, the more likely it is that you will end up looking at the pictures of non mahram people, even if you haven't befriended them yourself.

We are not negating the fact that there are benefits of using facebook; however the harms of using facebook outnumber the benefits. Allah says:

وَالْإِثْمُهَا أَكْبَرُ مِنْ نَفْعِهَا

"Their sin is greater than their benefit."

(Qur'an 2:219)

People need to realise that facebook and other social networking sites are just **a** mean of spreading Islam and raising awareness. They are not **the only** means for this. People use Deen as an excuse to sign up to these sites, then they eventually forget their 'original purpose' and become like all the other users.

You also mentioned that you want to use facebook to see what your friends and family are up to. This is also not a valid excuse at all because most people don't disclose important information that needs to be told to others on social networking sites. If it is urgent and you need to know about it, they will call you. Many of the people on facebook and other sites keep on changing their status to unimportant and petty things like 'I'm going for a haircut' or 'I'm going to sleep now'. If you really need to communicate with them, you may do so by calling once in a while...

Is reading these kinds of statuses the kind of thing you want to spend your time indulged in. Even when the Prophet s.a.w has said:

"It is from the good of ones Deen that he leaves those things that do not concern him."

(Tirmidhi Hadith no.2318)⁴³

And:

“The dwellers of paradise will only regret the time they spent in the world not doing the dhikr of Allah”

(Baihaqi)⁴⁴

So do you really want to regret the time you wasted reading an unnecessary status of another person and browsing their pictures.

If you are haven't already done anything that you regret, there is no need to enter into something that has the potential to make you do something you will come to regret.

Clarification on Hadith of migration at time of Fitna

Q: What is the meaning of the hadith regarding migrating in the age of fitna? How shall I preserve my faith?.

A: Imam Bukhari narrates in his authentic compilation of hadith that the Prophet (Allah bless him and give him peace) said,

⁴³ "من حسن إسلام المرء تركه ما لا يعنيه" (الترمذي رقم الحديث ٢٣١٨)

⁴⁴ لَيْسَ يَتَحَسَّرُ أَهْلُ الْجَنَّةِ إِلَّا عَلَى سَاعَةٍ مَرَّتْ بِهِمْ لَا يَذْكُرُونَ اللَّهَ عَزَّ وَجَلَّ فِيهَا

“A time will come that the best property of a Muslim will be sheep, which he will take on the top of mountains and the places of rainfall (valleys) so as to flee with his religion from Al-Fitan (afflictions and trials).” (Sahih al-Bukhari 1/7 Qadeemi kutub khana)⁴⁵

The scholars of Hadith state that the meaning of ‘al-fitan’ is that scenario where there is widespread violation of the laws of Allah Ta’ala. In addition, for one to practice upon Islam it is extremely difficult and the means to practice are all but gone. Such a time is regarded as al-fitan.

This hadith is not promoting celibacy. Instead, it is highlighting the last resort to preserve one’s faith. (In’aam al-Baari 1/404 Maktabah al-Hiraa)

Furthermore, if a person is trapped in the web of al-fitan and he has the strength and courage to counter these trials, then it will be compulsory for him to try his utmost to vanquish these trials. If he is weak and unable to face the severity of the trials, it is better for him to migrate. (Umdah al-Qaari 1/224 Maktabah at-tawfiqiyyah)⁴⁶

⁴⁵ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "يُوشِكُ أَنْ يَكُونَ خَيْرُ مَالِ الْمُسْلِمِ عَتَمٌ يَتَّبِعُ بِهَا شَعَفَ الْجِبَالِ وَمَوَاقِعَ الْقَطْرِ ، يَفْرُ بِدِينِهِ مِنَ الْفِتَنِ. (صحيح البخاري ج ١ ص ٧ قديمي كتب كانه)

⁴⁶ فيه فضل العزلة في أيام الفتن إلا أن يكون الإنسان ممن له قدرة على إزالة الفتنة فإنه يجب عليه السعي في إزالتها..... والختار تفضيل الخلطة لمن لا يغلب على ظنه الوقوع في المعاصي (عمدة القاري ج ١ ص ٢٢٤ مكتبة التوفيقية)

Let alone a common Muslim, every Muslim should constantly be striving to preserve his faith. There are some deeds every Muslim should do daily without fail to safeguard his/her faith. Below is a checklist which everybody should try and adhere to. Every night, take account of yourself and see if you practiced the '5 points'.

- 1) Men must perform their 5 times salaah in the masjid with the congregation. Likewise, women should perform 5 times salaah at home in the recommended time.
- 2) Recite a portion of the Quran daily according to one's capacity.
- 3) Study the English translation of the Quran for 10-15 minutes daily. We recommend Ma'ariful Quran by Mufti Muhammad Shafi sahib or Tafseer Uthmani by Maulana Shabeer Ahmed Uthmani sahib (Allah have mercy on them).
- 4) To perform zikr (remembrance of Allah) daily. The recitation of 100 times Salawaat on the Prophet (Allah bless him and give him peace), a 100 times Istighfaar and a 100 times third kalimah some time in the morning and evening.
- 5) Do your utmost to fulfil the rights of people. Do not oppress or hurt anyone.

If there is a downpour of rain and we see shelter, we immediately run to that shelter. Likewise, when there is a downpour of trials, the shelter is the company of the pious and god-fearing. Frequent the gatherings of the pious in your locality. Also, try and spend some time with the brothers in Tabligh Jama'ah. It is a praiseworthy movement with the sole aim of refreshing and reviving the faith of the people.

Is it permissible to sell church skirts?

Q: A supplier is selling a type of skirt called a 'church skirt', which customers use in a church. Are we allowed to buy and sell this skirt?

A: It is permissible for a Muslim to buy and sell the type of skirt in reference.⁴⁷

⁴⁷ وفي المحيط لا يكره بيع الزناير من الصرايف والقلسوة من المجوسية - فتاوى الشامى - ج ٦ - ص ٣٩٢ - إجماع سعيد
فتاوى محمودية - ج ٢٤ - ص ١٤٩ - مكتبة محمودية
تبيين الحقائق - ج ٦ - ص ٢٩ - مكتبة امداديه

Does one have to distribute profits of a partnership equally?

Q: I and a few friends of mine have planned to start an engineering consulting firm together. We have planned for two roles:

1) As a consultant general. Meaning of consultant: Consultants are individuals that typically work for themselves but may also be associated with a consulting firm. They, for a fee, give advice or provide a service in a field of specialized knowledge or training. The consultants can work alone or with the clients' staff. So as a firm we will get money from them and provide technical support to them (out sourcing).

2) As a consult staffing company: a company that provides consultants to the clients (like manpower consulting). This is particularly common in the technology sector. Consultants are often called contractors in the technology sector in reference to their employment contract. When a client demands their need for manpower, we will select a few people or take an interview of them and make them work for that client under our name. Then that client will send us the payment.

Our doubt is; we are from different areas. So how should we share the profit and loss amongst ourselves? One of my friends is doing design, and the other is handling the manpower. If the one handling the manpower gets more income than the one who does the design, do we have to

share it amongst ourselves equally or can we have some percentage of sharing? Please advise us what to do?

A: The type of contract that you and your friends hope to implement is called شركة الابدان (shirkatul abdaan. This is when two or more people decide to work together without any capital (no money invested from either party) and agree to split the profits between them according to the agreement they make (can be equal or different percentages). It will be permissible whether the craft/ line of work is the same or different. And it will also be permissible whether the partners are from different places or the same place.⁴⁸

We recommend that you have a contract drawn up that clearly states the terms and conditions of the contract and the allotted profits etc, and you should keep the following Hadith-e- Qudsi in mind:

يقول الله تعالى : أنا ثالث الشريكين ، ما لم يخن أحدهما صاحبه . فإذا خان خرجت من بينهما (المستدرک رقم الحديث ٢٣٢٢)

Allah the Almighty says: *‘I am the third of two partners as long as they don’t deceive each other. Then when they deceive each other, I leave them.’*

(Mustadrak hadith no.2322)

^{٤٨} وَأَمَّا شَرِكَةُ الصَّنَاعِ (وَتُسَمَّى شَرِكَةُ الْأَبْدَانِ وَشَرِكَةُ الْأَعْمَالِ وَشَرِكَةُ التَّقْبِيلِ . (قَوْلُهُ : فَالْحَيَّاطَانِ وَالصَّبَّاعَانِ يَشْتَرِكَانِ عَلَى أَنْ يَتَقَبَّلَا الْأَعْمَالَ وَيَكُونَ الْكَسْبُ بَيْنَهُمَا فَيَجُوزَ ذَلِكَ) وَسَوَاءٌ اتَّفَقَتْ أَعْمَالُهُمْ ، أَوْ اخْتَلَفَتْ فَالشَّرِكَةُ جَائِزَةٌ كَالْحَيَّاطَيْنِ ، وَالْإِسْكَافَيْنِ ، أَوْ أَحَدُهُمَا حَيَّاطٌ ، وَالْآخَرُ إِسْكَافٌ ، أَوْ صَبَّاعٌ. (الجوهرة النيرة شرح مختصر القدوري)

On what price do we calculate zakat for stock in trade?

Q: Most businessmen I know pay zakaat on stock in trade at cost price , not selling price. Please confirm which is the correct value to be used?

A: When calculating Zakat, the market related value of the stock in trade will be considered on the day the Zakat is due.⁴⁹

Injecting brine solution in frozen chicken.

Q: Some poultry abattoirs inject Brine into the chickens in the process between slaughter and packing. This reportedly serves to elongate shelf life of the chickens. But it also increases the size of the chickens as well as the weight.

⁴⁹ الزكاة واجبة في عروض التجارة كائنة ما كانت إذا بلغت قيمتها نصاباً من الورق والذهب كذا في الهداية ... وتعتبر القيمة عند حوالا لحول

الفتاوى الهندية - ج ١ - ص ١٧٩ - ١٨٠ - مكتبه رشيدية
في عرض تجارة قيمته نصاب

فتاوى الشامى - ج ٢ - ص ٢٩٨ ، فتاوى الشامى - ج ٢ - ص ٢٨٦ - ٢٩٩ - ايج ايم سعيد
، البحر الرائق - ج ٢ - ص ٢٢٩ - ايج ايم سعيد ، البنائة شرح الهداية - ج ٤ - ص ١٠٤ -
١٠٥ - المكتبة الحقانية ، فتاوى محموديه - ج ١٤ - ص ١٣٠ - مكتبه محموديه ، فتاوى حقانية -
ج ٣ - ص ٥٤٢ - جامعه دار العلوم حقانية ، آپ کے مسائل اور ان کا حل - ج ٣ - ص ٤٢١

A: Brine injection in poultry carcass is an industrial practice to enhance the taste, tenderize the meat and prolong the shelf life.

This practice is generally governed by Department of Agriculture, Forestry and Fisheries.⁵⁰

The practice of using salt as a preservative was prevalent in older times as well.⁵¹

However, since injecting brine solution increases the weight of the chicken carcass, this increase in weight should be clearly mentioned on the packaging. This is a legal requirement as well. Concealing this increase in weight due to the brine solution may lead to deception.

⁵⁰ <http://www.pmg.org.za/report/20110322-department-agriculture-department-trade-industry-poultry-brine-inject> (*accessed 21st Sept. 2011*)

⁵¹ فِي الْمَغْرِبِ سَمَكٌ مَلِيحٌ وَمَمْلُوحٌ وَهُوَ الْقَدِيدُ الَّذِي فِيهِ الْمِلْحُ (الدر المختار وحاشية ابن عابدين (رد المختار) ٢١١ / ٥)
ينبغي أن يحترموا ويعظموا ويرجع إليهم ولأن المالح يحفظ الطعام ويمنع من ورود الفساد عليه - فيض القدير (٥١٦ / ٥)

Is it permissible for Islamic Radio Stations to use facebook?

Q: (Continuing from your article about abstaining from facebook). Is it then permissible for Islamic radio stations to use facebook and twitter?

A: It was stated in the previous article:

“You mentioned that you want to spread Deen and raise awareness of Islam. We commend you for this intention and pray that Allah, the Almighty gives you the ability to do so. However, you also mentioned that you would like to try and do this on facebook, a website based on the intermingling of the sexes and communicating with *non mahram* people, which, unfortunately, some Muslims nowadays don’t consider to be a sin. They consider it to be the ‘norm’ and say that there’s nothing wrong with it...”

The same statement can be applied to this question. Many radio stations have a good intention when they initially make a facebook or twitter page, but the users and ‘fans/followers’ are generally of a mixed gender. Therefore, if the radio station is able to ensure that there will be segregation on their website, there will be no harm in using facebook or twitter to assist the radio station. However, if someone looks at the ‘islamic’ groups on facebook or twitter, they will see that majority of the groups do not implement this and they will see the amount of unlawful interaction there is between the sexes.

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ. ۖ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ. ۚ وَاتَّقُوا اللَّهَ ۚ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ

“And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty.”
(Qur'an 5:2)

The shari ruling will be according to the measures taken by the radio station to ensure that their ‘page/ wall...’ is sharia compliant.

Is it permissible to work for an NGO?

Q: I am working in a NGO, the organization name is ‘save the children’, I am an agricultural officer, and our work is to motivate people to sow vegetables. To motivate them we go to people homes and sometimes communicate with men. Our organization is basically from the USA and our salary comes in the form of dollars and my friend say that is a Haraam salary, please guide me as I am unsatisfied by my job. I feel that I have done a great sin. I have not found peace anywhere.

A: Agriculture is commendable and encouraged in Islam.

Many verses of the Quran and Ahadith refer to agricultural activities.

Allah Ta’aala says;

أَفَرَأَيْتُمْ مَا تَحْرُثُونَ (٦٣) أَأَنْتُمْ تَزْرَعُونَهُ أَمْ نَحْنُ الزَّارِعُونَ (٦٤)

Well, tell Me about that (seed) which you sow: Is it you who grow it, or are We the One who grows?

It is mentioned in a Hadith,

“A Muslim who plants a tree or grows a crop, and then, a man, bird or animal eats of it, it will be charity on his part.”

*Sahih Bukhari 2/817 , Dar ibnKatheer , Al Yamaama*⁵²

Sahih Muslim 3/1189 , Dar Ihya Al turaath Al Arabi , Beirut

You stated that your work is to motivate people to sow vegetables. This service is Shariah compliant and your salary will also be Shariah compliant.

We understand you are a female. If our understanding is correct, then we also take this opportunity to remind you to observe the Shariah laws of Hijab. Cover yourself appropriately and do not interact with males unnecessarily.

Peace lies in conforming to the Sharia at all times and also making the Zikr of Allah.

Living in a house bought through a loan from a bank

⁵² حدثنا قتيبة بن سعيد حدثنا أبو عوانة (ح) وحدثني عبد الرحمن بن المبارك حدثنا أبو عوانة عن قتادة عن أنس رضي الله عنه قال : قال رسول الله صلى الله عليه و سلم (ما من مسلم يغرس غرسا أو يزرع زرعاً فيأكل منه طير أو إنسان أو بهيمة إلا كان له به صدقة) (صحيح البخاري - ج ٢ - ص ٨١٧ - دار ابن كثير ، اليمامة - بيروت)

Q: My father owns 2 businesses, business A being his main business and B being his second. Both run independently, one can survive without the other. He also has many properties. These properties are earning a rental income. The rental from one of his properties is used to run madressas which is part of his charitable fund.

In business A he uses an overdraft facility and loans from commercial banks for his cash flow, to run his business, which he is paying interest on. It has been suggested to him to sell business B and some properties so that he will have enough money to run business A without paying interest. He has had good offers for business B and his properties, however he is not interested. The problem of paying interest has been explained to him but he does not want to listen.

He is also living in a home where he has a bond. He does have another apartment which is vacant, which he can sell to pay off his bond. He also refuses to do this.

I and my sisters all live in homes provided by my father, which were purchased on bonds. These homes have now been paid for. We also have a second property each purchased in the same manner. We also receive a monthly income from our father.

Alhumdulillah (s.w.t) has given some understanding of Deen and we are now concerned about our situation. Please could you answer the following questions?

Q1) Can we live in these homes knowing interest was paid on them.

Q2) is the money that we receive every month halaal for un knowing that the business is being run on intrest.

Q3) should he be going for haj and umrah every year and running madressas when he is paying intrest in his bussiness and living in a bonded property.

A: Alhamdolillah, Allah granted you understanding of Deen that interest is haram. Continue advising your father with respect and wisdom.

There are two issues here:

- a. To buy a house on bond or to run a business with interest and loan.
- b. Ownership of the house.

It is haraam (strictly prohibited) to take an interest loan to purchase a house or to run a business.

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنتُمْ مُؤْمِنِينَ (٢٧٨) فَإِنْ لَمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِنَ اللَّهِ وَرَسُولِهِ وَإِنْ تُبْتُمْ فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ (٢٧٩)

O ye who believe! fear Allah and relinquish what remains of interest, if you are believers. But if you do it not, then beware of war from Allah and His Messenger; and if you repent, then you shall have your original sums; thus you shall not wrong, nor shall you be wronged.

(Qur'an 2:279-280)

Rasulullah salallahualayhi wasallam cursed the one who consumes Ribā, or gives it, or stands witness for it or makes out the contract for it. (Abu Dawud hadith no.3333)⁵³

⁵³ عن ابن مسعود ، قال : لعن رسول الله صلى الله عليه وسلم آكل الربا وموكله وشاهديه وكاتبه (أبو داود رقم الحديث ٣٣٣٣)

However, your father will be the owner of the house. If he gave you the house or any moneys as a gift, it will be valid as your father's major source of income is from halaal.⁵⁴

Alhamdolillah, your father can afford to go for Hajj or Umrah every year. You should continue to making him understand that the noor he will attain from his Hajj or Umrah (or any other Ibaadat) may get spoiled by dealing in interest. Therefore you have to advise your father to abstain from interest bearing loans.

Putting Jewellery on children's name

Q: Can we hand over ownership of jewellery on the name of our children who have not reached the age of puberty (nabaligh)? In this scenario is it necessary to give Zakat on the jewellery?

A: If the ownership of the jewellery is transferred to the children then *Zakat* would not be compulsory on the jewellery. When the children become adults (*baligh*), if the jewellery they possess reaches the threshold of *Nisāb*, then

⁵⁴ أهدي إلى رجل شيئا أو اضافته إن كان غلب ماله من الحلال ، فلا بأس به... (العالم الكبيرية

after one Lunar year *Zakat* would be compulsory on the jewellery.⁵⁵

However, it is necessary that the transfer of ownership of the jewellery is done using explicit terms or by an action which indicates the transfer of ownership (e.g. taking possession of the jewellery).⁵⁶ Furthermore, the transfer should be done by the father and if this is not possible than it should be done by any trustee of the father and preferably in the presence of witnesses.⁵⁷

⁵⁵ (قَوْلُهُ عَقْلٌ وَبُلُوغٌ) فَلَا تَجِبُ عَلَى مَجْنُونٍ وَصِيِّ لِأَمَتِهَا عِبَادَةً مَحْصَةً وَلَيْسَا مُحَاطَيْنِ بِهَا . رد المحتار (ص ٢٥٨ / ج ٢ / المكتبة الشاملة)
اعلم بأن شروط وجوب الزكاة ستة أشياء العقل والبلوغ والنصاب والإسلام وحولان الحول والحرية .
خزانة الفقه (ص ٣٠ / مخطوط)
كالصبي إذا بلغ يعتبر ابتداء الحول من وقت البلوغ . طوابع الأنوار (ص ٧ ب / ج ٣ / مخطوط)
⁵⁶ م: والقض الذي يتعلق به تمام الهبة بإذن الواهب، وذلك نوعان صريح ودلالة. الفتاوى التاترخانية (ص ٤٢١ / ج ١٤ / مكتبة زكريا)
قَالَ فِي التَّنَائِيَةِ الْقَبْضُ يَتَوَقَّفُ عَلَى مَقَامِ الْقَبُولِ حَتَّى إِذَا قَالَ لَهُ وَهَبْتُ لَكَ عَبْدِي هَذَا وَالْعَبْدُ حَاضِرٌ فَقَبْضُهُ جَازٍ إِنْ لَمْ يَقُلْ قَبِلْتُ، وَكَذَا لَوْ كَانَ الْعَبْدُ غَائِبًا، فَقَالَ وَهَبْتُهُ مِنْكَ فَأَذْهَبَ فَأَقْبَضَهُ وَلَمْ يَقُلْ قَبِلْتُ فَذَهَبَ وَقَبْضُهُ جَازٍ . المجهر النيرة (ص ٣٢٥ / ج ١ / المكتبة الشاملة)
وشروط صحته: أن يكون بإذن المالك صريحاً ، نحو: اقبضه أو أذنت لك بالقبض، أو رضيت، وما شاكل ذلك. فيجوز قبضه ولو بعد الافتراق. أو دلالة، وذلك أن يقبض العين في المجلس ولا ينهاه. شرح القواعد الفقهية للشيخ أحمد الزرقا (ص ٢٩٩ / دار القلم)

⁵⁷ الْمُؤْهُوبُ لَهُ إِنْ كَانَ مِنْ أَهْلِ الْقَبْضِ فَحَقُّ الْقَبْضِ إِلَيْهِ، وَإِنْ كَانَ الْمُؤْهُوبُ لَهُ صَغِيرًا أَوْ مَجْنُونًا فَحَقُّ الْقَبْضِ إِلَى وَلِيِّهِ، وَوَلِيُّهُ أَبُوهُ أَوْ وَصِيُّ أَبِيهِ ثُمَّ جَدُّهُ ثُمَّ وَصِيُّ وَصِيِّهِ ثُمَّ الْقَاضِي وَمَنْ نَصَبَهُ الْقَاضِي،

Additionally, since the jewellery in this case now belongs to the children it would not be permissible for someone else to use this jewellery.⁵⁸

Is name giving ceremony permissible

Q: 1) My wife will soon be giving birth inshallah to our first child. This is obviously a very happy and joyous occasion for our family. It has always been a tradition in my family to have a specific day set aside to invite the close relatives to attend a “name giving” ceremony for the newborn child. Is

سَوَاءٌ كَانَ الصَّغِيرُ فِي عِيَالٍ وَاحِدٍ مِنْهُمْ أَوْ لَمْ يَكُنْ، كَذَا فِي شَرْحِ الطَّلَاوِيِّ. الفتاوى الهندية (ص ٣٩٤ ج ٤ / المكتبة الشاملة)

وفي الخاتمة: إذا وهب أجنبي لصغير حق قبض الهبة، والقبول يكون للأب، فإن مات الأب أو غاب غيبة منقطعة كان ذلك لوصي الأب الح. الفتاوى التاترخانية (ص ٤٦٨ / ج ١٤ / مكتبة زكريا) م: قال محمد في الأصل: كل شيء وهبه لا بنه الصغير، وأشهد عليه، وذلك الشيء معلوم في نفسه فهو جائز، والقبض أن يعلم ما وهبه له، والإشهاد ليس بشرط لازم، فإن الهبة تتم بالإعلام، ولكن ذكر الإشهاد احتياطاً احترازاً عن الجحود إذا كبر الولد، وفي الفتاوى الخلاصة: بخلاف ما إذا كان الابن بالغاً حيث يشترط قبضه وإن كان في عياله. الفتاوى التاترخانية (ص ٤٦٣ / ج ١٤ / مكتبة زكريا) وشروط صحته: أن يكون يأذن المالك صريحاً، نحو: اقبضه أو أذنت لك بالقبض، أو رضيت، وما شاكل ذلك. شرح القواعد الفقهية للشيخ أحمد الزرقا (ص ٢٩٩ / دار القلم)

^{٥٨} وفي الذخيرة: لو قال وهبت هذا الشيء لابني الصغير، جازت الهبة من غير قبول، لأن الأب يتولى هذا، وكل عقد يتولاه الواحد يكفي فيه بالإيجاب كييع الأب ماله من ابنه الصغير، ولو اتخذ لولده الصغير ثياباً، ثم أراد أن يدفع إلي ولد آخر ليس له ذلك إلا أن يبين وقت الاتخاذ أنه عارية له. الفتاوى التاترخانية (ص ٤٦٧ / ج ١٤ / مكتبة زكريا)

رَجُلٌ اتَّخَذَ لَوْلَاهُ أَوْ لِتَلْمِيزِهِ ثِيَابًا ثُمَّ أَرَادَ أَنْ يَدْفَعَ إِلَى وَلَدِهِ الْآخَرِ أَوْ لِتَلْمِيزِهِ الْآخَرَ لَيْسَ لَهُ ذَلِكَ إِلَّا إِذَا بَيَّنَّ وَقْتُ الْإِتِّخَاذِ أَنَّهَا عَارِيَّةٌ، كَذَا فِي السِّرَاجِيَّةِ. الفتاوى الهندية (ص ٣٩٢ / ج ٤ / المكتبة الشاملة)

a ‘name giving’ ceremony allowed or encouraged in Islam? Assuming it is not allowed, what will be the kindest and most polite way for me to explain to my beloved parents & close family members that I cannot keep a ‘name giving’ ceremony.

2) My wife’s name is Mariam. If we are blessed with a daughter is it allowed or recommended to name the child the same name as her mother and call her Mariam also?

A: We make dua Almighty Allah grants you a pious, healthy, obedient and beautiful child. Aameen.

Shari’ah does not prohibit us from expressing happiness during joyous occasions. If one expresses happiness or takes part in a custom which is within the parameters of Shari’ah, then it will perfectly permissible.

A ‘name giving’ ceremony will be permissible⁵⁹ if the following principles are adhered to:

- 1) There must not be any intermingling of the opposite genders.
- 2) The get-together should be free of all sin like music, movie-making and other impermissible acts.
- 3) One should not believe this practice to be a sunnah or a compulsory act of Deen.⁶⁰

⁵⁹ فتاوى رحيمية ج ١٠ ص ٢٢٦ دار الإفتاء
⁶⁰ وكل مباح يؤدي إليه أي إلى اعتقاد السنية أو الوجوب فمكروه. (الدر المختار ص ١٠٥ دار الكتب العلمية)

4) There should not be persistence for it to transpire to such an extent that if somebody who is unable to attend is scolded or rebuked. If people are blameworthy and thought ill of for not attending such a gathering, then such gatherings should not take place.⁶¹

Gathering people on a specific date is for convenience. Specifying dates will be problematic when it is done to acts of worship which are free of such specification.⁶²

However, as majority of such customs fail to meet the criteria and in most instances the laws of Shari'ah are violated, one should abstain from having a name giving ceremony. Many people will regard this to be from amongst the laws of *aqeeqah*. Hence these practices should be shunned altogether.⁶³

The practice of the Sahabah (may Allah be pleased with them) on such occasions was to bring the new born child in the presence of the Prophet (Salutations and peace be upon him). Imam Bukhari reports that Abu Musa al-Ash'ari (May Allah be pleased with him) was blessed with a boy. He brought the child to the Prophet (Salutations and peace be upon him). The Prophet named the boy Ibrahim and

⁶¹ فتاوى عثمانى ١٠٦/١ مكتبة معارف القرآن

⁶² ومنها التزام العبادات المعينة في أوقات معينة لم يوجد لها ذلك التعيين في الشريعة كاللزام صيام يوم النصف من شعبان وقيام ليلته (الاعتصام ج ١ ص ٤٦ مكتبة التوحيد)

⁶³ مسائل رفعت قاسمي ج ٥ ص ٢٠٨ حامد كتب خانه

carried out *tabneek* (placing of a sweet substance on the palate). Thereafter, he made dua on behalf of the child.⁶⁴

Imam Nawawi (may Allah be pleased with him) states that it is mustahab to take a new born child to the pious and gain their blessings and prayers for the baby.⁶⁵ Instead of having a name giving ceremony, you should consider taking your new born child to the pious and gain their prayers and blessings for your child.

The objective of names is to help differentiate and distinguish between people. By having two people with identical names under one roof will cause confusion in the smallest of errands. There will be confusion in the letters received as to who exactly is the addressee. Phone calls for one of the two will always puzzle the one receiving the call. Dental appointments, optician's appointments and the like can be easily misunderstood. Although it will be permissible to keep the name of the child and mother the same, it is not advisable.⁶⁶

⁶⁴ عَنْ أَبِي مُوسَى رَضِيَ اللَّهُ عَنْهُ قَالَ وَلَدَ لِي غُلَامٌ فَأَتَيْتُ بِهِ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَسَمَّاهُ إِبْرَاهِيمَ فَحَنَنْتُهُ بِثَمَرَةٍ وَدَعَا لَهُ بِالْبَرَكَةِ وَدَفَعَهُ إِلَيَّ وَكَانَ أَكْبَرَ وَلَدِ أَبِي مُوسَى (صحيح البخاري رقم الحديث ٥٠٤٠)

⁶⁵ أَمَّا أَحْكَامُ الْبَابِ : فَقِيهِ : اسْتِخْتَابُ تَحْنِيكِ الْمَوْلُودِ . وَفِيهِ : التَّيْرُكُ بِأَهْلِ الصَّلَاحِ وَالْفَضْلِ . وَفِيهِ : اسْتِخْتَابُ حَمْلِ الْأَطْفَالِ إِلَى أَهْلِ الْفَضْلِ لِلتَّيْرُكِ بِهِمْ ، وَسَوَاءٌ فِي هَذَا الْاسْتِخْتَابِ الْمَوْلُودُ فِي خَالٍ وَلَادَتِهِ وَبَعْدَهَا . (شرح النووي ج ٢ ص ١٩٦ دار الفوائد)

⁶⁶ كتاب الفتاوى ج ٦ ص ١٣٠ زمزم ببلشر

An orphan using interest from his bank account

Q: My father passed away when I was 14. I am studying and I am unable to go for work. So we have an amount and we deposited it in bank and an interest of 5000 comes. Is there any concession in this situation to use the interest? We are caught under poverty.

A: We make dua that Allah Taa'alah Shower your father with his special mercy. Ameen.

You did not mention how much money you have in bank. The amount of interest is big, 5000. Therefore it means that the capital amount in the bank is also very big.

We understand that you have a fear of poverty and you are looking for solution in Shariah to protect yourself against it. You have to understand that this world is Darul Asbaab (A world of means). We have to adopt means for whatever we want. Finally it is Allah who puts effects in the means we adopt. Allah Taa'alah made some people rich and some poor. While you strive to enrich yourself, have the belief that you will get only that which is decreed for you. No more, no less, You should read Surah Waaqiyah every night after magrib salah. It is a protection against poverty.

Hadhrat Uthman Radiallahu anhu, said to Hadhrat Abdullah Ibn Masood Radiallahu anhu that Nabi said : "Those who read Surah Waaqiyah every night, poverty will never afflict him".

Allah Taa'lah is Razaaq. In the Holy Qur'aan, Allah Taa'lah said: "Allah give sustenance to who wishes without counting"⁶⁸

You should remove the money from the bank and invest it in a Musharakah (to be partners with somebody in business) or Mudaarabah (Silent partner ship). In brief Mudaarabah is the person gives you R10000 as capital to do business and both of you share the profit according to mutual agreement for example 50% each. If there is a profit of for example R1000, both will get R500. If there is a loss it will be taken out from the R10000 and you will get no profit⁶⁹.

^{٦٧} حَدَّثَنَا عُمَرُ بْنُ أَبِي عَيْلَانَ، نا عُثْمَانُ بْنُ أَبِي شَيْبَةَ، نا أَبُو الْيَمَانِ الْبَصْرِيُّ قَالَ: سَمِعْتُ السَّرِيَّ بْنَ يَحْيَى قَالَ: نا شُعَاعُ بْنُ أَبِي فَاطِمَةَ قَالَ: قَالَ عُثْمَانُ لَابْنِ مَسْعُودٍ: أَلَا أَمُرُكَ بِعَطَائِكَ؟ قَالَ: لا حَاجَةَ لِي بِهِ، قَالَ: يَكُونُ لِيَبْنَاتِكَ قَالَ: إِنِّي قَدْ أَمَرْتُ بَتَاتِي أَنْ يَقْرَأَ كُلَّ لَيْلَةٍ سُورَةَ الْوَاقِعَةِ فَإِنِّي سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «مَنْ قَرَأَ كُلَّ لَيْلَةٍ - أَوْ قَالَ فِي كُلِّ لَيْلَةٍ - سُورَةَ الْوَاقِعَةِ لَمْ تُصِبْهُ قَافَةٌ أَبَدًا». قَالَ السَّرِيَّ، وَكَانَ أَبُو فَاطِمَةَ لَا يَدْعُهَا كُلَّ لَيْلَةٍ.

^{٦٨} وَاللَّهُ يَرْزُقُ مَنْ يَشَاءُ بِغَيْرِ حِسَابٍ (Baqarah , 211)

^{٦٩} الباب في شرح الكتاب ، الكتاب المضاربة

المضاربة: عقد على الشركة بمال من أحد الشريكين وعمل من الآخر، ولا تصح المضاربة إلا بالمال الذي بينا أن الشركة تصح به، ومن شرطها أن يكون الربح بينها مشاعاً

Please download a standard Mudaarabah contract

prepared by the Darul Iftaa at :

<http://daruliftaa.net/sharcompliance/Download-document/Mudarabah-Agreement.html>

For a detailed explanation on Musharakah and Mudaarabah, kindly find attached relevant articles from Introduction of Islamic finance of Mufti Taqi Usmani Saheb.

Selling sea water

Q: Is it permissible to sell bottled sea water that people may use in religious rituals?

A: It is permissible to sell bottled sea water to people that may use it for religious rituals^{70,71 72}The seller of the water does not need to be privy to the intentions of the purchaser⁷³.

Is sister's husband a mahram? Can one go to Hajj with him?

⁷⁰فتاوى محمودية. ج: ١٦. ص: ١٣٨. ادارة الفاروق
⁷¹لا يكره بيع الزناير من النصراني و القلاسة من المجوسي ... (تبيين الحقائق. كتاب الكراهية، فصل في البيع)
⁷²و الضابط عندهم ان كل ما فيه منفعة تحل شرعا فان بيعه يجوز (الفقه الاسلامي و ادلتة. الفصل الاول: عقد البيع)
⁷³و لا بأس بان يؤاجر داراً من الذي ليسكنها فان شرم فيها الخمر او عبد فيها الصليب... لم يلحق المسلم اثم...لانه لم يؤاجرها لذلك و المعصية فعل المستأجر. (المبسوط للسرخسي. كتاب البيوع: باب الاجارة الفاسدة)

Q: I came across some argument and I would like to know if your sister's husband is your mahram. And can Haj be performed with him??

A: Allah 'Taā'la is All-Wise and His commands are full of wisdom. The fulfillment of Allah's commands guarantees a peaceful and enjoyable life. Allah 'Taā'la says in the Glorious Quran:

من عمل صالحا من ذكر أو أنثى وهو مؤمن فلنجنيه حياة طيبة (سورة النحل، رقم الآية ٩٧)

*Whoever, male or female, has done righteous deeds, while a believer,
We shall certainly make him live a good life*

(Quran: 16/97)

Today evils such as immodesty, adultery, and avenues leading to these sins are so widespread and have become a norm in society, resulting in the destruction of lives and the foundation of families.

In principle, it is not permissible for a man to be alone with a female.^{74 75 76 77} Therefore if the man in reference is not a Mahram of the woman, then their sitting together and

^{٧٤} والخلو بالاجنبية الحرة - في بيت واحد - مكروه تحريماً (الدرر المباحة في الحظر والإباحة، ج ١، ص

٥٤)

^{٧٥} (قوله الخلو بالاجنبية) اي الحرة.....وقوله : حرام (رد المحتار، ج ٦، ص ٣٦٨: سعيد)

^{٧٦} وَعَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ: «لَا تُسَافِرُ امْرَأَةٌ ثَلَاثَةَ أَيَّامٍ إِلَّا وَمَعَهَا مُحْرَمٌ أَوْ زَوْجٌ»
وَلَا بُنَا إِذَا لَمْ يَكُنْ مَعَهَا زَوْجٌ، وَلَا مُحْرَمٌ لَا يُؤْمَنُ عَلَيْهَا إِذْ النِّسَاءُ لِحِمٍّ عَلَى وَصَمٍ إِلَّا مَا دُبَّ عَنْهُ، وَلِهَذَا لَا
يُجُوزُ لَهَا الْخُرُوجُ وَحْدَهَا وَالْخَوْفُ عِنْدَ اجْتِمَاعِهِنَّ أَكْثَرُ، وَلِهَذَا حُرِّمَتْ الْخُلُوءُ بِالْأَجْنِبِيَّةِ، وَإِنْ كَانَ مَعَهَا
امْرَأَةٌ أُخْرَى (بدائع الصنائع، ج ٢، ٢٩٩: المكتبة الرشيدية)

^{٧٧} وَلِهَذَا تُحْرَمُ الْخُلُوءُ بِالْأَجْنِبِيَّةِ وَإِنْ كَانَ مَعَهَا غَيْرُهَا مِنَ النِّسَاءِ وَالْمُحْرَمِ مَنْ لَا يُجُوزُ لَهُ مُتَاكِفَتُهَا عَلَى
التَّأْيِيدِ بِقَرَابَةٍ، أَوْ رِضَاعٍ، أَوْ مُصَاهَرَةٍ (البحر الرائق، ج ٢، ص ٣١٥: سعيد)

making Dua is not allowed. Furthermore, even the talking of a strange man and strange woman is not permissible unless it is necessary. ⁷⁸

Topical Fluoride Therapy

Q: My child's dentist has recommended an application of Topical Fluoride. This is a preventative treatment to help reduce the risk of tooth decay. The Topical Fluoride application contains a trace of alcohol (Ethanol). The fluoride is painted on to the teeth and is easily removed using toothbrush.

Is the above mentioned dental treatment permissible?

A: According to Hanafi Madhab, the prohibition of *Khamr* is restricted to the alcohol derived from grapes and dates. ⁷⁹ The alcohol (ethanol) used in these medication is derived from non grapes sources.

Consumption of non-khamr alcohol is permissible when used for the purpose of medication as long as it does not

⁷⁸ احسن الفتاوي، ج ٨، ص ٤٠: سعيد)

⁷⁹ أَمَّا الْخَمْرُ فَهِيَ اسْمٌ لِلْيَاءِ مِنْ مَاءِ الْعَنْبِ إِذَا عَلَى وَاشْتَدَّ وَقَذَفَ بِالرَّيْدِ، وَهَذَا عِنْدَ أَبِي حَنِيفَةَ عَلَيْهِ الرَّحْمَةُ وَعِنْدَ أَبِي يُونُسَ وَمُحَمَّدٍ عَلَيْهِمَا الرَّحْمَةُ مَاءُ الْعَنْبِ إِذَا عَلَى وَاشْتَدَّ فَقَدْ صَارَ خَمْرًا وَتَرْتَّبَ عَلَيْهِ أَحْكَامُ الْخَمْرِ قَذَفَ بِالرَّيْدِ أَوْ لَمْ يَقْذِفْ بِهِ (وَجْهٌ) قَوْلُهُمَا أَنَّ الرُّكْنَ فِيهَا مَعْنَى الْإِسْكَارِ وَذَا يَحْضُلُ بِدُونِ الْقَذْفِ بِالرَّيْدِ (وَجْهٌ) قَوْلِ أَبِي حَنِيفَةَ - رَحِمَهُ اللَّهُ - أَنَّ مَعْنَى الْإِسْكَارِ لَا يَتَكَامَلُ إِلَّا بِالْقَذْفِ بِالرَّيْدِ فَلَا يَصِيرُ خَمْرًا بِدُونِهِ بَدَائِعُ الصَّنَاعِ فِي تَرْتِيبِ الشَّرَائِعِ (١١٢ / ٥)

intoxicate.⁸⁰ Hence the use of Fluoride therapy will be permissible.

Is punishment in the grave a reality?

Q: One of my friends said that there is no such thing as azaabe qabr, and that such things go against the Quran and there is no authentic Hadith related to azaabe qabr. Could you kindly narrate a few if any?

A:

1.

النَّارُ يُعْرَضُونَ عَلَيْهَا غُدُوًّا وَعَشِيًّا . وَيَوْمَ تَقُومُ السَّاعَةُ أَدْخِلُوا آلَ فِرْعَوْنَ أَشَدَّ الْعَذَابِ

“And they will be exposed to the fire day and night. Then, on the day the hour will rise (day of judgement), it shall be said to the Angels: Cast the people of the Pharaoh into the severest punishment!”

(Qur'an 40:46)

Commentary:

- “Our scholars have substantiated the punishment in the grave with this verse of the Holy Qur'an. They say: “The verse indicates that fire will be brought to them morning and evening and this does not refer to the day of judgment as Allah says: “And on the day judgment will be established, cast you the people of Pharaoh in the severest penalty” (i.e.

⁸⁰ لأن الاشرية المتخذة من غير العنب و التمر تحلّ عند ابي حنيفة و ابي يوسف بقصد التقوى او لتداوى ما لم تبلغ حد الاسكار ... فان كانت الكحول المستعملة في الادوية متخذة من غير العنب و التمر فان تناولها جائز في مذهب ابي حنيفة و ابي يوسف رحمهما الله ما لم تبلغ حد الاسكار و يمكن ان يؤخذ بقولها لحاجة التداوى (بحوث في قضايا فقهية معاصرة ج 1 ص ٣٤٠)

it is referring to a time that is before the day of judgment, m). It also does not refer to this world, as bringing them to the fire did not occur in this world. Therefore, it becomes evident that this happened after their death and will happen before the Day of Judgment, thus it proves the establishment of the punishment in the grave. When it is established and proved for Pharaoh's people it will also be established for others, as there is no reason of distinction”⁸¹

- “This verse is a fundamental evidence for the Ahle-Sunnah-wal-Jamā’h in establishing the punishment of the grave”.⁸²

2.

سَنُعَذِّبُهُم مَّرَّتَيْنِ ثُمَّ يُرَدُّونَ إِلَىٰ عَذَابٍ عَظِيمٍ

“We shall punish them twice and then they will be returned to a great punishment”

(Qur'an 9:101)

Commentary:

⁸¹ اُحْتَجَّ أَصْحَابُنَا بِهَذِهِ الْآيَةِ عَلَىٰ إِبْتِثَابِ عَذَابِ الْقَبْرِ قَالُوا الْآيَةُ تَقْتَضِي عَرْضَ النَّارِ عَلَيْهِمْ عُذْوًا وَعِشْيَا، وَلَيْسَ الْمُرَادُ مِنْهُ يَوْمَ الْقِيَامَةِ لِأَنَّهُ قَالَ: وَيَوْمَ تَقُومُ السَّاعَةُ أُدْخِلُوا آلَ فِرْعَوْنَ أَشَدَّ الْعَذَابِ، وَلَيْسَ الْمُرَادُ مِنْهُ أَيْضًا الدُّنْيَا لِأَنَّ عَرْضَ النَّارِ عَلَيْهِمْ عُذْوًا وَعِشْيَا مَا كَانَ حَاصِلًا فِي الدُّنْيَا، فَتَبَيَّنَ أَنَّ هَذَا الْعَرْضَ إِنَّمَا حَصَلَ بَعْدَ الْمَوْتِ وَقَبْلَ يَوْمِ الْقِيَامَةِ، وَذَلِكَ يُدَلُّ عَلَىٰ إِبْتِثَابِ عَذَابِ الْقَبْرِ فِي حَقِّ هَؤُلَاءِ، وَإِذْ تَبَيَّنَ فِي حَقِّهِمْ تَبَيَّنَ فِي حَقِّ غَيْرِهِمْ لِأَنَّهُ لَا قَائِلَ بِالْفَرْقِ (التفسير الكبير)

⁸² وَهَذِهِ الْآيَةُ أَصْلٌ كَبِيرٌ فِي اسْتِدْلَالِ أَهْلِ السُّنَّةِ عَلَىٰ عَذَابِ الْبَرِّخِ فِي الْقُبُورِ وَهِيَ قَوْلُهُ تَعَالَى: النَّارُ يُعْرَضُونَ عَلَيْهَا غُدُوًّا وَعَشِيًّا (تفسير القرآن العظيم. ابن كثير)

- Tabarani narrates from Sayyiduna Ibn Abbas (Allah be pleased with him) that he said: “Once on Friday the Messenger of Allah (Allah bless him & give him peace) gave a sermon. And then he said: “Allah has disgraced the hypocrites in the world and that is the first punishment and the second punishment will be in the grave”⁸³

3.

وَلَوْ تَرَىٰ إِذِ الظَّالِمُونَ فِي غَمَرَاتِ الْمَوْتِ وَالْمَلَائِكَةُ بَاسِطُو أَيْدِيهِمْ أَخْرِجُوا أَنْفُسَكُمْ . الْيَوْمَ تُجْزَوْنَ عَذَابَ الْهُونِ بِمَا كُنْتُمْ تَقُولُونَ عَلَى اللَّهِ غَيْرَ الْحَقِّ وَكُنْتُمْ عَنْ آيَاتِهِ تَسْتَكْبِرُونَ

“If only you could see when the wrongdoers are in the throes of death and the Angels are stretching out their hands saying “Bring forth your souls! This day you shall be recompensed with the torment of disgrace because of what you used to say about Allah other than the truth. And you grew arrogant against his signs!”

(Qur'an 6:93)

Commentary:

- This is an address to the wrong doers while they are dying, informing them that they will be severely tormented on the very day of their death. If the punishment were to be postponed to the Day of Judgment, they would not have

⁸³ وَقَوْلُهُ جَلَّ ذِكْرُهُ سَنُعَذِّبُهُمْ مَرَّتَيْنِ وَرَوَى الطَّبْرِيُّ وَابْنُ أَبِي حَاتِمٍ وَالتَّبْرَانِيُّ فِي الْأَوْسَطِ أَيْضًا مِنْ طَرِيقِ السُّدِّيِّ عَنْ أَبِي مَالِكٍ عَنْ بَنِي عَبَّاسٍ قَالَ خَطَبَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَوْمَ الْجُمُعَةِ فَقَالَ اخْرُجْ يَا فُلَانُ فَإِنَّكَ مُتَافِقٌ فَذَكَرَ الْحَدِيثَ وَفِيهِ فَفَضَّحَ اللَّهُ الْمُتَافِقِينَ فَهَذَا الْعَذَابُ الْأَوَّلُ وَالْعَذَابُ الثَّانِي عَذَابُ الْقَبْرِ وَرَوَاهُ أَيْضًا مِنْ طَرِيقِ سَعِيدِ بْنِ أَبِي عَزُوبَةَ عَنْ قَتَادَةَ خُوَّهٍ وَمِنْ طَرِيقِ مُحَمَّدِ بْنِ ثَوْرٍ عَنْ مَعْمَرٍ عَنِ الْحَسَنِ سَنُعَذِّبُهُمْ مَرَّتَيْنِ عَذَابَ الدُّنْيَا وَعَذَابَ الْقَبْرِ

been told: “This day you shall be recompensed”. This proves that there is a torment in the grave.

References from the Ahādīth:

1. Hazrat Aisha radhiallahu anha narrates that Rasulullah sallallahu alaihi wasallam said: “Verily there is a constriction in the grave and if anyone was to pass it or be safe from it, it would be Sa’d bin Muādh.”⁸⁴

2. Rasulullah sallallahu alaihi wasallam said: “The grave is a garden from the gardens of Paradise or a pit from the pits of Hell”⁸⁵

3. Hānī’ the freed slave of Hadhrat Utmān radhiallahu anhu narrates that when Hadhrat Uthmān ibn Affān would stand in front of a grave, he would cry until his beard would become moist. It was once said to him. You mention Heaven and Hell and you don’t cry yet you cry from this? He replied “Rasulullah sallallahu alaihi wasallam said “Verily the grave is the first hurdle from the hurdles of the Hereafter. If one succeeds in it, then what is to come after it will be easier for him. However, if does not succeed in it, then what is to come after it will be harder for him.”

⁸⁴ عَنْ عَائِشَةَ قَالَتْ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: إِنَّ الْقَبْرَ ضَعْفَةٌ، وَلَوْ نَجَا أَوْ سَلِمَ أَحَدٌ مِنْهَا لَنَجَا سَعْدُ بْنُ مُعَاذٍ (مسند احمد ص. ٢٣٣ ج. ١ مؤسسة نادر)

⁸⁵ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: إِنَّمَا الْقَبْرُ رَوْضَةٌ مِنْ رِيَاضِ الْجَنَّةِ أَوْ حُفْرَةٌ مِنْ حُفْرِ النَّارِ (سنن الترمذي ص. ٢٢٠، ج. ٤، دار الغرب الإسلامي)

He also said that Rasulallah sallallahu alaihi wasallam said: “I have not seen a sight except that the grave is more horrific than it.”⁸⁶

4. Sa’d radhiallahu anhu used to teach his children the following words like how a teacher teaches children to write. He used to say “Rasulallah sallallahu alaihi wasallam used to seek Allah’s refuge from these things after every Salāh.” “Oh Allah, I seek your protection from cowardice and I seek your protection from that I am sent forth to a feeble age and I seek refuge in you from the trials of the world and I seek refuge in you from the punishment of the grave.”⁸⁷

5. Aisha radhiallahu anha narrates that a Jewess came to her and mentioned the punishment of the grave and said “May Allah protect you from the punishment of the grave.” So Hadhrat Aisha radhiallahu anha asked Rasulallah sallallahu alaihi wasallam about the punishment of the grave and Rasulallah sallallahu alaihi wasallam said “There is a

⁸⁶ عَنْ هَانِئٍ، مَوْلَى عُثْمَانَ، قَالَ: كَانَ عُثْمَانُ بْنُ عَفَّانَ إِذَا وَقَفَ عَلَى قَبْرِ بَيْتِكِي حَتَّى يَبْلُغَ لِحْيَتَهُ، فَقِيلَ لَهُ: تَذْكُرُ الْجَنَّةَ وَالنَّارَ، وَلَا تَبْكِي، وَتَبْكِي مِنْ هَذَا؟ قَالَ: إِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، قَالَ: إِنَّ الْقَبْرَ أَوَّلُ مَنَازِلِ الْآخِرَةِ، فَإِنْ نَجَا مِنْهُ، فَمَا بَعْدَهُ أَيْسَرُ مِنْهُ، وَإِنْ لَمْ يَنْجُ مِنْهُ، فَمَا بَعْدَهُ أَشَدُّ مِنْهُ قَالَ: وَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَا رَأَيْتُ مَنْظَرًا قَطُّ إِلَّا وَالْقَبْرُ أَفْظَعُ مِنْهُ» (سنن ابن ماجه).
ص. ١٤٢٦، ج. ٢، دار إحياء الكتب العربية)

⁸⁷ كَانَ سَعْدٌ يَعْلَمُ بَنِيهِ هَؤُلَاءِ الْكَلِمَاتِ كَمَا يَعْلَمُ الْمُعَلِّمُ الْغُلَّامَانَ الْكِتَابَةَ وَيَقُولُ: إِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يَتَعَوَّذُ مِنْهُمْ دُبُرَ الصَّلَاةِ: اللَّهُمَّ إِنِّي أَعُوذُ بِكَ مِنَ الْجَبَنِ، وَأَعُوذُ بِكَ أَنْ أُرَدَّ إِلَى أَرْذَلِ الْعُمُرِ، وَأَعُوذُ بِكَ مِنْ فِتْنَةِ الدُّنْيَا، وَأَعُوذُ بِكَ مِنْ عَذَابِ الْقَبْرِ (صحیح البخاری. ص. ٢٣، ج. ٤، دار طوق النجاة)

punishment of the grave”. Aisha radhiallahu anha says that I never saw Rasulallah sallallahu alaihi wasallam pray a Salāh after that instance except that he sought refuge from the punishment of the grave.⁸⁸

6. Ibn Abbās radhiallahu anhu narrates that once Rasulallah sallallahu alaihi wasallam passed by two graves and said “Verily both of them are getting punished albeit not from a major sin.” Then he said “This one used to be a tale bearer and this one did not safeguard himself from his urine.”⁸⁹

Above are only a few Ahādith. There are numerous other narrations in the other books.⁹⁰

⁸⁸ عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا: أَنَّ مُيُودِيَّةً دَخَلَتْ عَلَيْهَا، فَذَكَرَتْ عَذَابَ الْقَبْرِ، فَقَالَتْ لَهَا: أَعَاذَكَ اللَّهُ مِنْ عَذَابِ الْقَبْرِ، فَسَأَلَتْ عَائِشَةَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ عَذَابِ الْقَبْرِ، فَقَالَ: نَعَمْ، عَذَابُ الْقَبْرِ. قَالَتْ عَائِشَةُ رَضِيَ اللَّهُ عَنْهَا: فَمَا رَأَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعْدَ صَلَاةٍ إِلَّا تَعَوَّذَ مِنَ عَذَابِ الْقَبْرِ (صحيح البخاري، ص. ٩٨، ج. ٢، دار طوق النجاة)

⁸⁹ عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا، مَرَّ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى قَبْرَيْنِ فَقَالَ: لِيَهُمَا لِيُعَذَّبَانِ وَمَا يُعَذَّبَانِ مِنْ كَبِيرٍ. ثُمَّ قَالَ: بَلَى أَمَا أَحَدُهُمَا فَكَانَ يَسْعَى بِالنَّمِيمَةِ، وَأَمَا أَحَدُهُمَا فَكَانَ لَا يَسْتَتِرُ مِنْ بَوْلِهِ... (صحيح البخاري، ص. ٩٩، ج. ٢، دار طوق النجاة)

⁹⁰ الروايات: أخرج أبو نعيم في الحلية عن جابر قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَنْ مَاتَ يَوْمَ الْجُمُعَةِ أَوْ لَيْلَةِ الْجُمُعَةِ أُجِرَ مِنْ عَذَابِ الْقَبْرِ وَجَاءَ يَوْمَ الْقِيَامَةِ عَلَيْهِ طَابِعُ الشَّهَدَاءِ... أخرج البخاري عن أبي هريرة قَالَ كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَدْعُو اللَّهُمَّ إِنِّي أَعُوذُ بِكَ مِنْ عَذَابِ الْقَبْرِ.

أخرج ابن أبي شيبة والشيخان عن عائشة رَضِيَ اللَّهُ عَنْهَا أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ إِنْ أَهْلَ الْقُبُورِ يُعَذَّبُونَ فِي قُبُورِهِمْ عَذَابًا تَسْمَعُهُ الْبَهَائِمُ

Consensus of the Aslāf (pious predecessors)

Our illustrious, wise sincere predecessors also accepted, believed in and preached the reality of the punishment of the grave. Below are just a few quotes:

1. “And we believe in the punishment of the Grave for the people who deserve it. Imam Abu Hanīfa said: Whosoever denies the punishment of the grave, then he is from the perishing Jahmiyyah group.”⁹¹
2. “And the punishment of the grave is for the disbelievers and for some of the disobedient believers.”⁹²
3. “And the constriction of the grave and the punishment of the grave for all of the disbelievers. And for some of the disobedient believers it is a true possibility.”⁹³
4. Imam Qurtubi states: “Belief in the punishment of the grave and its trials is obligatory and affirming it is incumbent.”⁹⁴
5. Murwadhi says: Abu Abdillah (Imam Ahmad bin Hanbal) told us: “The punishment of the grave is Haq and

أخرج أحمد عن عائشة رضي الله عنها أن رسول الله صلى الله عليه وسلم قال يُرسل على الكافر حيتان
واحدة من قبل رأسه والآخرى من قبل رجله يقرضانه قرضا كلما فرغتنا عادتا إلى يوم القيامة...
⁹¹ و يؤمن بعذاب القبر لمن كان له اهل. قال ابو حنيفة: من انكر عذاب القبر فهو من الطبقة الجهمية
الهالكة (شرح العققيدة الطحاوية. دار الكتب العلمية)
⁹² و عذاب القبر للكافرين و لبعض عصاة المؤمنين (شرح عقائد النسفية. دار البيروتي)
⁹³ و ضغطة القبر و عذابه حق كائن للكفار كلهم و لبعض عصاة المؤمنين حق جاز
Al-Fiqh al-Akbar, White Thread Press
⁹⁴ الإيمان بعذاب القبر وفتنته واجب. والتصديق به لازم التذكرة بأحوال الموتى وأمور الآخرة. مكتبة
دار المنهاج للنشر والتوزيع، الرياض

none deny it except a person who is deviated and one who deviates.”⁹⁵

The Ahādith in support of the punishment of the grave are mutawātir. 96 Contrary to the belief of some who contend that there is no sharʿī basis for the punishment of the grave.

Imam al-Taftazani states in his commentary of al-Aqāʾid al-Nasafiyya:

“In general the narrations on this subject (punishment of the grave) and on many of the states of the next world are mutawatir in meaning, although the individual narrations taken separately do not attain the rank of tawatur”

*(Saʿd al-Din al-Taftazani on the creed of Najm al-Din al-Nasafi, P.127- Dār al Bayrūtī)*⁹⁷

Imam al-Suyuti (Allah have mercy on him) compiled seventy such narrations in his excellent book Sharh al-sudūr fi ahwāl al-mawtā wa al-qubūr. He says:

“The narrations with regards to the punishment of the grave have reached the level of certainty (tawātur). They have

⁹⁵ قال المروزي قال: لنا أبو عبد الله عذاب القبر حق ما ينكره إلا ضال مضل (طبقات الحنابلة. دار المعرفة)

⁹⁶ المتواتر يفيد العلم الضروري، أي العلم اليقيني الذي يضطر الإنسان إلى التصديق به تصديقاً جازماً، ممن يشاهد الأمر بنفسه؛ فإنه لا يتردد في تصديقه، فكذلك الخبر المتواتر، لذلك كان المتواتر كله مقبولاً، ولا حاجة إلى البحث عن أحوال رواته.

⁹⁷ وبالجملة: الأحاديث في هذا المعنى وفي كثير من أحوال الآخرة متواترة المعنى وإن لم يبلغ أحادها حد التواتر

been reported by a group of Companions (Allah be pleased with them all)”,
(Pg.119. Dārul Madani)⁹⁸

The punishment of the grave has been so clearly proven that the the four main Fuqahā (Imam Abu-Hanifa, Shāfi, Ahmad, Mālik rahmatullahi alaihim), all the Muhaddithīn and Aslāf are all unanimous on the fact that the punishment of the grave is a reality and they all believe in it. These are the people who were given the true understanding of the Qurān and Ahādith.

Feel and behave like a family!

Q: My sister has been married for six years and has a little daughter. She lives in a small community which is conducive to an Islamic life-style in the sense that amenities such as islamic schools, madaris etc. are close to her home. Despite having a home and secure employment, her husband wishes to re-locate to a town which has no such facilities and which is very far from both their families.

In addition he sometimes compels her to cancel previously made arrangements in order to accompany him to the

⁹⁸ قد تَوَاتَرَتْ الْأَحَادِيثُ بِذَلِكَ مُؤَكَّدَةً مِنْ رِوَايَةِ أَنَسٍ وَالْبَرَاءِ وَتَعِيمِ النَّارِيِّ وَبَشِيرِ بْنِ الْكَلَالِ وَثَوْبَانَ وَجَالِدِ بْنِ عَبْدِ اللَّهِ وَعَبْدَ اللَّهِ بْنِ رَوَاحَةَ وَعِبَادَةَ بْنَ الصَّامِتِ وَخَدِيجَةَ وَضَمْرَةَ بْنَ حَبِيبٍ وَابْنَ عَبَّاسٍ وَابْنَ عُمَرَ وَابْنَ مَسْعُودٍ وَعُثْمَانَ بْنَ عَفَّانَ وَعُمَرَ بْنَ الْخَطَّابِ وَعَمْرُو بْنَ الْعَاصِ وَمَعَاذَ بْنَ جَبَلٍ وَأَبِي أُمَامَةَ وَأَبِي الْمُرَدَّاءِ وَأَبِي زَافِعٍ وَأَبِي سَعِيدِ الْخُدْرِيِّ وَأَبِي قَتَادَةَ وَأَبِي هُرَيْرَةَ وَأَبِي مُوسَى وَأَسْمَاءَ وَعَائِشَةَ رَضِيَ اللَّهُ عَنْهُنَّ أَجْمَعِينَ

functions of distant relatives. Since he works during the week, she would prefer that they spend the week-ends filling in quality time with their child rather than attending these functions of relatives whom they do not even know very well. My sister has no objection in attending the functions of close friends and relatives.

My concern is that because of her husbands constant domination, my sister is beginning to feel that shariah has made women the under-dogs of men, because her husband cites shariah to keep her under his control.

He wishes to dictate her every move, how the family spends their free time, where they should live, what their child should wear, etc. I believe that important matters should be discussed between a husband & wife before a final decision is taken, but according to my brother-in-law, a man needs not consider his wife's opinion. He insists that this is what shariah dictates.

Please advise me on this matter so that I can present Mufti Sahib's advice to both, my sister & her husband.

A: The secret to a happy family is that while there are clearly defined roles of the husband and wife, the feelings of both are taken into account and consideration.

If one were to purely look at who possesses what **authority** in each area of life, then it would **stop feeling like a family**. That is why Islam has given us two wonderful tools for decision-making. One is *mashwarah* (mutual consultation) and the second is *istikharah* (prayer for guidance).

If the husband started asking questions like “Does Islam require me to spend time with my family on the weekends?” and if the wife started asking questions like “Does Islam require me to make lunch?” it would be a recipe for disaster. This is because whenever a family looks only at fulfilling the minimum *huqūq* (rights) of one another and disregards the feelings and sensitivity of the other spouse then it's very easy for arguments to occur.

Since the husband's reason for moving to another town has not been mentioned, we cannot speculate on his intentions. Keeping this fact in mind it would be best for the husband to sit down and discuss with his wife, his reasons for moving to that town. As a suggestion, both can make up a list of pros and cons, and how their daughter's education and *tarbiyah* (upbringing) might be affected. In addition, they can also seek out a local scholar and explain to him the reasons so that he can give further advice after hearing both sides.

Spending quality time with the children is also a paramount objective of the parents. The couple can work out an arrangement where they can adequately spend quality time with their child and also be able to attend the functions of distant relatives. If managed properly, both can be accomplished if the husband feels it is important to attend to a specific function to keep relatives happy and maintain cordial relations.

Both husband and wife should make an effort to understand each other and understand that they are life-long partners. If *mashwarah* (mutual consultation) is made keeping

in mind the need to compromise it would lead to a much happier marriage than the husband just getting his way.

Assisted Reproductive Technologies

Q: My question was in relation to ART [Assisted Reproductive Technologies].

Would it be permissible for an unmarried man to use frozen sperm cells of his acquired before he gets married (frozen due to some illness and treatment that may harm or reduce his fertility) to have children with his wife, using her eggs once he gets married in the future?

Also would the same man be allowed to use sperm cells created using stem cell technologies from his own DNA/cells in the future once this has been proven safe to use for human reproduction through scientific research?

A: In your query, you have stated that you wanted to secure yourself from infertility by freezing your sperm out of the fear that you may become infertile in the future.

There are two important principals in Shari'ah that have to be considered in response to your query.

1. Necessity unrestricts that which has been restricted in Shari'ah.⁹⁹
2. Whatever is permitted due to dire need will be restricted to the extent of its necessity.¹⁰⁰

⁹⁹ الصَّرُورَاتُ تُبَيِّحُ الْمَحْظُورَاتِ (الأشباه والنظائر لابن نجيم (ص: ٧٣))

Necessity is when a person reaches such a state that if he does not indulge in an unlawful act, he will die or be close to death. It is only in this state when unlawful becomes lawful. Also, in the state of necessity, unlawful becomes lawful only with the following three conditions:

- a) The person is so sick that his life is in danger
- b) The fear of losing life is not just an assumption, but a reliable doctor also agrees, and the treatment is unavailable with lawful substances
- c) The doctor is convinced that the person will be cured by using the unlawful substance

Reverting back to your situation, you have stated that you fear that you **may** become infertile. You fear you won't have any children. Out of this fear, you **want** to freeze your sperm. This would be impermissible since this is merely an assumption. The laws of Shari'ah are not relaxed based on assumptions. They are based on an absolute situation.

The following may also be considered:

1. Firstly, the sperm is normally acquired through masturbation, which is prohibited.¹⁰¹

2. An insemination procedure uses a thin, flexible tube (catheter) to put sperm into the woman's reproductive tract

¹⁰⁰ مَا أُبِيحَ لِلصَّرُورَةِ يَقْدَرُ بِقَدَرِهَا (الأسباه والنظائر لابن نجيم (ص: ٧٣))

¹⁰¹ تَاكِيحُ الْيَدِ مَلْعُونٌ (العناية شرح الهداية (٢/ ٣٣٠))

which would require both the couples to expose their private parts which is Harām.

3. There are many risks involved in such a procedure. Here are few which are listed below:

- Insemination combined with superovulation increases the risk of multiple pregnancies (conceiving more than one fetus). Multiple pregnancies are a high risk for mother and fetuses.
- Insemination procedures pose a risk of infection.
- Some women experience severe cramping during insemination.
- There is a slight risk of puncturing the uterus during intrauterine insemination.
- There is a slight risk of ovarian hyperstimulation syndrome if superovulation is used together with insemination.
- There may be a higher risk of birth defects for babies conceived by certain assisted reproductive techniques.
- Usually, one's sperm is kept frozen for a period of 6 months in the laboratory before it can be used. After this period of time when one goes back to retrieve it, how does he not know that it might have been mistakenly switched around with someone else's sperm since so many incidents like this have occurred in the past leading to a dispute and argument amongst the husband and wife. Also, Shari'ah has taken a lot of precautions in preserving one's lineage.

Islam teaches us that the creation of life is the exclusive act of Allah Subhānahu wa Ta'ālā. No matter what method and

means one employs, if Allah Almighty does not wish to grant children, one will never have children. Allah Subhānahu wa Ta'ālā says:

لِلَّهِ مُلْكُ السَّمَاوَاتِ وَالْأَرْضِ يَخْلُقُ مَا يَشَاءُ يَمُوتُ لِمَنْ يَشَاءُ إِنَّا لَهُ قَدِيرٌ
وَإِنَّا لَنَجْعَلُ مَنْ يَشَاءُ عَقِيمًا إِنَّهُ عَلِيمٌ قَدِيرٌ

“To Allah belongs the dominion of the heavens and the earth. He creates what He wills. He bestows female (children) to whomsoever He wills and bestows male (children) to whomsoever He wills, or He bestows both males and females, and He leaves barren whomsoever He wills. He is full of Knowledge and Power.”

(Qur'an 42: 49-50)

Once a person came to Rasullullah Sallallahu alaihi wa Sallam and asked regarding coitus interrupts (azl), He replied saying that when Allah Subhanahu wa Ta'ālā intends to create something, nothing can prevent Him.¹⁰² Similarly, when Allah does not intend to create something then there is nothing you can do contrary to that.

The Qur'an mentions two great Prophets of Allah who desired children. They beseeched Allah Subhanahu wa

البحر الرائق شرح كنز الدقائق ومنحة الخالق وتكملة الطوري (٢/ ٢٩٣)

نَاكِحُ الْيَدِ مَلْعُونٌ

^{١٠٢} صحيح البخاري ١٤٨/٣

حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ، أَخْبَرَنَا مَالِكٌ، عَنْ زَيْبَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حَبَّانَ، عَنْ ابْنِ مُحَيْرِيزٍ، قَالَ: رَأَيْتُ أَبَا سَعِيدٍ رَضِيَ اللَّهُ عَنْهُ، فَسَأَلْتُهُ، فَقَالَ: خَرَجْنَا مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي غَزْوَةِ بَنِي الْمُضَلِّقِ، فَأَصَبْنَا سَبْئًا مِنْ سَيْيِ الْعَرَبِ، فَأَشْتَهَيْنَا النِّسَاءَ، فَأَشْتَدَّتْ عَلَيْنَا الْغَزْبَةُ، وَأَحْبَبْنَا الْعَزْلَ، فَسَأَلْنَا رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ: مَا عَلَيْكُمْ أَنْ لَا تَفْعَلُوا مَا مِنْ تَسْمَةِ كَائِنَةٍ إِلَى يَوْمِ الْقِيَامَةِ إِلَّا وَهِيَ كَائِنَةٌ

Ta'ālā and were granted children in their old age. Allah says in the Quran regarding Zakaria Alaihis Salām :

فَنَادَتْهُ الْمَلَائِكَةُ وَهُوَ قَائِمٌ يُصَلِّي فِي الْمِحْرَابِ أَنَّ اللَّهَ يُبَشِّرُكَ بِيَحْيَى مُصَدِّقًا بِكَلِمَةٍ مِنَ اللَّهِ وَسَيِّدًا وَحَصُورًا وَنَبِيًّا
مِّنَ الصَّالِحِينَ . قَالَ رَبِّ أُنَّى يَكُونُ لِي غُلَامٌ وَقَدْ بَلَغَنِيَ الْكِبَرُ وَامْرَأَتِي عَاقِرٌ قَالَ كَذَلِكَ اللَّهُ يَفْعَلُ مَا يَشَاءُ

"So the angels called him while he was standing in prayer in the chamber, 'Indeed, Allah gives you good tidings of Yahya, confirming a word from Allah and (who will be) honorable, abstaining (from women), and a prophet from among the righteous.' He said, 'My Lord, how will I have a boy when I have reached old age and my wife is barren?' The angel said, 'Such is Allah ; He does what He wills.'"
(Qur'an 3: 39-40)

It has been stated that Zakariya Alaihis Salām was 120 years old at that time and his wife was 90 years old. In another place in the Quran Allah Subhānahu wa Ta'ālā mentions about Ibrahim Alaihis Salām:

وَامْرَأَتُهُ قَائِمَةٌ فَضَحِكَتْ فَلَبَسَ نَهَايَا إِسْحَاقَ وَمِنْ وَّرَاءِ إِسْحَاقَ يَعْقُوبَ . قَالَتْ يَا وَيْلَتَى أَنَّى هَذَا بَعْلِي شَيْخًا إِنَّ هَذَا لَشَيْءٌ عَجِيبٌ

"And his wife was standing, and she smiled. Then We gave her glad tidings of Ishāq and after Ishāq, Ya'qoob. She said, 'Woe to me! Shall I give birth while I am an old woman and this, my husband, is an old man? Indeed, this is an amazing thing!'"

(Qur'an 11:71-72)

It is also recorded that Ibrahim Alaihis Salām was 120 years old and his wife was 90 or 98 years old.

The recent issue of embryonic stem cell is still undergoing a research. Once this issue is researched, we will be able to issue a Fatwā.

First 10 days of Zil Hijjah

First Ten Days of Zul Hijjah

Abdullah Ibn 'Abbas Radiyallaahu anhu related that the Prophet Sallallaahu Alayhi Wasallam said, "Good deeds performed on other days are not superior to those performed on these (first ten days of Zul Hijjah)."

The Companions Radiyallaahu anhum inquired, "Not even Jihad?" He replied, "Not even Jihad, except for that person who goes out putting himself and his wealth in danger and does not return with anything." (*Sahih Bukhari*)

Is it necessary to pay out the share in Qurbani before Zabeeha?

Q: On Eid-ul-Adha if a person wants a share in an animal, is it necessary for him to for the share before qurbani? if he dedicate a person and tell him to put my share in you animal i will give you mony letter and the provides money after some days of eid, will his sacrifice be accepted or not?

A: It is not a pre-requisite for the validity of the Qurbāni

that the animal or the share of the animal should be paid for before it can be slaughtered.¹⁰³

It is sufficient that the person has merely purchased the animal or its share before Qurbāni. Payment of the animal or its share can be made after Qurbāni.

Does cutting one's hair in first 10 day of Dhul Hijja affect the Qurbani?

Q: Last year I cut my hair on the 5th day of Dhul Hijja and then I came to know that we should not cut our hair if we intend to do Qurbānī. So was my qurbānī accepted or not?

A: It is desirable for the one who will be sacrificing an animal for qurbānī to avoid cutting their hair or nails until after the animal is slaughtered. Rasulullah salallahu alayhi wasallam said:

“When the ten days (of Dhul Hijjah) begin and a person has an animal for sacrifice which he intends to slaughter, then let him not cut his hair or trim his nails.” (Muslim 2/160)

Rasulullah salallahu alayhi wasallam said in another Hadith:

^{١٠٣} وأما ركنها فذبح ما يجوز ذبحه في الأضحية بنية الأضحية في أيامها لأن ركن الشيء ما يقوم به ذلك الشيء والأضحية إنما تقوم بهذا الفعل فكان ركنًا كذا في النهاية (الفتاوى الهندية ج ٥، ص ٢٩١)

“Whoever has an animal for slaughtering, once the crescent of Dhul Hijjah has been declared he should not cut his hair or trim his nails until he has sacrificed (the animal)”

(Muslim hadith no.5236)

It is a recommended act due to the Hadīth. However, if one did cut his hair and/or nails during the first ten days of Dhul Hijjah before sacrificing, it will not affect the validity of making qurbānī.

(*Saḥīḥ Muslim*, 2/160)¹⁰⁴; (*Saḥīḥ Muslim* #5236)¹⁰⁵;
(*Raddul Muḥtār*, 2/181, H.M Sa‘īd)¹⁰⁶;
(*Fatāwa Mahmūdīyah*, 17/486, *Faruqīyyah*)

Recently married and already my husband's behaviour is changing!

Q: I recently got married in 2009. I was happy. After awhile something happened to my husband. His temper changed. It seems he has a dual policy in his mind. At the

¹⁰⁴ قال رسول الله صلى الله عليه وسلم: دخل العشر و عنده اضحية يريد ان يضحي, فلا يأخذن شعرا ولا يقلمن ظفرا

¹⁰⁵ وحدثني عبید الله بن معاذ العنبري حدثنا أبي حدثنا محمد بن عمرو الليثي عن عمر بن مسلم بن عمار بن أكمة الليثي قال سمعت سعيد بن المسيب يقول سمعت أم سلمة زوج النبي صلى الله عليه وسلم- تقول قال رسول الله صلى الله عليه وسلم- « من كان له ذبح يذبحه فإذا أهل هلال ذى الحجة فلا يأخذن من شعره ولا من أظفاره شيئا حتى يضحي

¹⁰⁶ وما ورد في صحيح مسلم قال رسول الله (ص): إذا دخل العشر وأراد بعضكم أن يضحي فلا يأخذن شعرا ولا يقلمن ظفرا فهذا محمول على الندب دون الوجوب بالاجماع

same time he loves me alot. Tell me how I can rebuild our trust. Tell me some wazifah or any brief recitation from the Quran so that I can live my life very happily and our trust is back? I want a happy and living relation. I love him very much and I want that he should love and care about me more than his life.

A: When a person embarks upon a new task, the initial stages are always challenging. Marriage is no different. Majority of newlyweds have complexities in the first couple of months and sometimes even years. The husband and wife have to compromise a lot to make things flow. Two individuals from different backgrounds and lifestyles have come together. There will certainly be issues upon which both agree and disagree. The difficulties of adjusting to a different lifestyle coupled with responsibility can manifest itself in outbursts of anger.

Happiness in marriage cannot be taken for granted; continuous happiness requires constant giving from both sides. For the tree of marital love to remain alive and keep growing, the soil has to be sustained, maintained, watered and nurtured.

Your husband maybe stressed or under pressure due to which he loses his temper frequently. You mentioned he loves you a lot; speak to him when he is in a good mood. Something might be disturbing him or upsetting him. Make your husband acknowledge that he is having difficulty controlling his temper. Once he accepts his weakness, convince him to attend anger management courses. These courses are designed specifically to help overcome domestic issues.

The Prophet (salallahu alayhi wasallam) said,
“Verily, there is in the body a small piece of flesh; if it is good the whole body is good and if it is corrupted the whole body is corrupted; lo! It is the heart .¹⁰⁷

All negative behaviour displayed by any human is due to the corruption of the heart. To alter or rectify anything, you have to consult with a specialist in that field. For car breakdowns there are mechanics. For computers there are technicians. To get a car moving again, it has to be rectified by a mechanic. To overcome a virus or malfunction, the computer has to be treated by a technician. Likewise, to rectify the ills of the heart, we have to consult and seek the guidance of scholars trained in the field of *Tazkiyah* (spiritual purification). A constant effort has to be made upon the heart and soul to rectify it. Hence, your husband must attend the gatherings of the scholars and endeavour to purify his soul and subdue negative pulses. Another way to help your husband is through the medium of books. Purchase books addressing anger and its harmful effects. Don't give it to your husband, as that might be offensive. Instead, place the book in such a place which will catch his eye.

¹⁰⁷ وَإِنَّ فِي الْجَسَدِ مُضْغَةً إِذَا صَلَحَتْ صَلَحَ الْجَسَدُ كُلُّهُ، وَإِذَا فَسَدَتْ فَسَدَ الْجَسَدُ كُلُّهُ، أَلَا وَهِيَ الْقَلْبُ " (صحيح البخاري رقم الحديث ٥٢)

Have lectures of scholars playing at home and in the CD player of your vehicle. Expose your husband to Islam and the lifestyle of the Prophet (salallahu alayhi wasallam).

All the while, make constant dū'ā to Almighty Allah. If there is anything in the house which attracts the wrath of Allah then dispose of it. Abstain from all activities which violate the Laws of Almighty Allah. You may want to supplicate to Allah the Almighty with the following:

رَبَّنَا هَبْ لَنَا مِنْ أَزْوَاجِنَا وَذُرِّيَّاتِنَا قُرَّةَ أَعْيُنٍ وَاجْعَلْنَا لِلْمُتَّقِينَ إِمَامًا

Rabbanā hab lanā min azwājina wathurriyyātinā qurrata 'ayunin waj 'alnā lilmuttaqīna imamā

And those who say, "Our Lord, grant us from among our wives and offspring comfort to our eyes and make us an example for the righteous."

We make dua to Allah Ta'ālā he grants yourself and your husband mutual love and trust. Āmīn

Women travelling more than musafat e safar

Q: Can a woman travel the Shari' safar with her mahram on a totally different vehicle (car or aeroplane)?

A: It is prohibited for a woman to travel 78 km or more without a *mahram* (a person that one cannot marry¹⁰⁸). Rasulullah sallallahu alaihi wasallam said:

Ibn Umar radhiallahu anhu narrates that Rasulullah Sallallahu alaihi wasallam said: “No woman should travel the distance of three days without a *mahram*.”¹⁰⁹

Ibn Abbas radhiallahu anhu narrates that Rasulullah s.a.w said: “No woman should travel without a *mahram* and no man enter upon a woman unless she has a *mahram* with her.” So a man asked: “Oh Prophet of Allah! I wish to leave with so and so army whilst my wife wishes to perform Hajj.” The Prophet Sallallahu alaihi wasallam replied: “Go with her.”¹¹⁰

If a female travels with her mahram by road, albeit in a separate car, it will be permissible on the condition that the cars remain within a close proximity of each other during the entire course of the journey.^{111 112 113 114}

¹⁰⁸ Such as a father, son, brother.

¹⁰⁹ عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا: أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: لَا تُسَافِرِ الْمَرْأَةُ ثَلَاثَةَ أَيَّامٍ إِلَّا مَعَ ذِي مَحْرَمٍ (صحيح البخاري رقم الحديث ١٠٨٦)

¹¹⁰ عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا، قَالَ: قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «لَا تُسَافِرِ الْمَرْأَةُ إِلَّا مَعَ ذِي مَحْرَمٍ، وَلَا يَدْخُلُ عَلَيْهَا رَجُلٌ إِلَّا وَمَعَهَا مَحْرَمٌ»، فَقَالَ رَجُلٌ: يَا رَسُولَ اللَّهِ إِنِّي أُرِيدُ أَنْ أَخْرُجَ فِي جَيْشٍ كَذَا وَكَذَا، وَامْرَأَتِي تُرِيدُ الْحَجَّ، فَقَالَ: اخْرُجْ مَعَهَا (صحيح البخاري رقم الحديث ١٨٦٢)

¹¹¹ صحيح البخاري: باب تعديل النساء بعضهن بعضا

¹¹² صحيح مسلم: باب في حديث الافك

The same, however, cannot be said for an aeroplane. This is because there are too many variables and possibilities on a plane and because it is virtually impossible for two planes to remain within close proximity with each other like two cars. One of the main reasons *Sharia* demands that a woman travel with a *mahram* is to protect her chastity. There have been and remain many cases of immoral advancements in air infamously titled the ‘mile high club’. It is very easy for a moral woman to become victim of such immoral people.

Why are my duaas not accepted?

Q: I am aware that upon doing dua, one should persist and not become impatient saying, “I did dua but it was not answered.”

However, one thing that has confused me is how a dua done at time when it is stated that dua is readily granted appears not to have been granted.

A: Making *du‘ā* is from amongst the shortest and fastest routes that leads one to Allah Ta‘ālā. *Du‘ā* is a display of humility and humbleness. The slave of Allah testifies his weakness and surrenders his affairs to His Master. To understand the reality of *du‘ā*, ponder over the following ahādith:

صحيح مسلم. ج: ٥٩٩١
صحيح البخاري: كتاب النكاح

The Prophet (salallahu alaihi wasallam) said,

“*Du‘ā* is the essence of worship.” (Sunan Tirmidhi hadith no.3371) ¹¹⁵

In a nut (e.g. almond) that which is within the shell is the main part and is really sought by the person who eats it. This part is valuable. Likewise, the core of all worship is submission. *Du‘ā* from beginning till end is submission. In comparison to other forms of worship, in *du‘ā* the aspect of humility, meekness and dependence upon Almighty Allah is most fervently.

Allah the Almighty appreciates His slaves begging Him and seeking His mercy. The Prophet (salallahu alaihi wasallam) said,

“There is nothing nobler in the sight of Allah than *Du‘ā*.” (Sunan Tirmidhi hadith no.3370) ¹¹⁶

Let alone appreciating, Allah Ta‘ālā is displeased when His slave does not turn to him.

¹¹⁵ عَنْ أَنَسِ بْنِ مَالِكٍ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الدُّعَاءُ مُخُّ الْعِبَادَةِ» (سنن الترمذي رقم الحديث ٣٣٧١)

¹¹⁶ عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لَيْسَ شَيْءٌ أَكْرَمَ عَلَى اللَّهِ تَعَالَى مِنَ الدُّعَاءِ» (سنن الترمذي رقم الحديث ٣٣٧٠)

The Prophet (salallahu alaihi wasallam) said, “Whoever does not ask Allah, Allah becomes displeased with him.” (Sunan Tirmidhi hadith no.3373) ¹¹⁷

Such is the mercy of Allah that He appreciates His servants beseeching Him and He gets displeased when His servants do not turn to Him. Allah Ta‘ālā addresses us personally ordering us to call upon Him:

“And when My servants ask you, [O Muhammad], concerning Me - indeed I am near. I respond to the invocation of the supplicant when he calls upon Me. So let them respond to Me [by obedience] and believe in Me that they may be [rightly] guided.” ¹¹⁸(Qur‘ān 2:186)

The Qur‘ān and Ahādith demonstrate the fact that Allah Ta‘ālā wants us to turn to Him in every affair of our life. Allah promises himself to respond in the above quoted verse. Allah Ta‘ālā is self sufficient and the Provider. He gives like no other. By Him giving, His treasures do not diminish. Allah Ta‘ālā is ever ready to respond to His slaves. Consider the following verse how Allah responds:

¹¹⁷ عَنْ أَبِي هُرَيْرَةَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «إِنَّهُ مَنْ لَمْ يَسْأَلِ اللَّهَ يَعْصِبْ عَلَيْهِ» (سنن الترمذي رقم الحديث ٣٣٧٣)

¹¹⁸ وَإِذَا سَأَلَكَ عِبَادِي عَنِّي فَإِنِّي قَرِيبٌ أُجِيبُ دَعْوَةَ الدَّاعِ إِذَا دَعَانِ فَلْيَسْتَجِيبُوا لِي وَلْيُؤْمِنُوا بِي لَعَلَّهُمْ يَرْشُدُونَ (سورة البقرة ١٨٦)

هُوَ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَجَعَلَ مِنْهَا زَوْجَهَا لِيَسْكُنَ إِلَيْهَا فَلَمَّا تَغَشَّاهَا حَمَلَتْ حَمْلًا خَفِيًّا فَمَرَّتْ بِهِ فَلَمَّا أَثْقَلَتْ دَعَوَا اللَّهَ رَبَّهُمَا لَئِنْ آتَيْنَا صَالِحًا لَنَكُونَنَّ مِنَ الشَّاكِرِينَ (١٨٩) فَلَمَّا آتَاهَا صَالِحًا جَعَلَا لَهُ شُرَكَاءَ فِيمَا آتَاهُمَا فَتَعَالَى اللَّهُ عَمَّا يُشْرِكُونَ (سورة الاعراف) (١٩٠)

"It is He Who created you from a single person, and made his mate of like nature, in order that he might dwell with her (in love). When they are united, she bears a light burden and carries it about (unnoticed). When she grows heavy, they both pray to Allah their Lord, (saying): "If You should give us a good [child], we will surely be among the grateful. But when He gives them a good [child], they ascribe partners to Him concerning that which He has given them. Exalted is Allah above what they associate with Him."

Despite the resulting disobedience from the parents, Allah Ta'ālā still grants them a good and healthy child. Likewise, in the following verse, Allah Ta'ālā responds to those who use Him for protection in sea and then forget Him when He brings them back to land. Allah Ta'ālā still responds to them.

هُوَ الَّذِي يُسَيِّرُكُمْ فِي الْبَرِّ وَالْبَحْرِ حَتَّىٰ إِذَا كُنْتُمْ فِي الْفُلِكِ وَجَرَّتْ مِنْكُمْ رِيحٌ طَيِّبَةٌ وَفَرَحُوا بِهَا جَاءَتْهَا رِيحٌ عَاصِفٌ وَجَاءَهُمُ الْمَوْجُ مِنْ كُلِّ مَكَانٍ وَظَنُّوا أَنَّهُمْ أُحِيطَ بِهِمْ دَعَوَا اللَّهَ مُخْلِصِينَ لَهُ الدِّينَ لَئِنْ أُخِيتْنَا مِنْ هَذِهِ لَنَكُونَنَّ مِنَ الشَّاكِرِينَ (٢٢) فَلَمَّا أَتَاهُمْ إِذَا هُمْ يَبْغُونَ فِي الْأَرْضِ بِغَيْرِ الْحَقِّ يَا أَيُّهَا النَّاسُ إِنَّمَا بَغْيُكُمْ عَلَىٰ أَنْفُسِكُمْ مَتَاعَ الْحَيَاةِ الدُّنْيَا ثُمَّ إِلَيْنَا مَرْجِعُكُمْ فَأُنَبِّتُكُمْ بِمَا كُنْتُمْ تَعْمَلُونَ (٢٣) (يونس)

"It is Him who enables you to travel through land and sea, till when you are in the ships and they sail with them with a favourable wind, and they are glad therein, then comes a stormy wind and the waves come to them from all sides, and they think that they are encircled therein, they invoke Allah, making their Faith pure for Him Alone, saying: "If You (Allah) deliver us from this, we shall truly be of the grateful. But when He saves them, at once they commit injustice upon the earth without right. O mankind, your injustice is only against

yourselves, [being merely] the enjoyment of worldly life. Then to Us is your return, and We will inform you of what you used to do.”
(Qur'ān 10:23)

A *du'ā* being accepted does not refer to you being granted what you asked for. The scope of an accepted *du'ā* is broader than that. The Prophet (salallahu alaihi wasallam) said,

“There is no Muslim who supplicates to Allah Almighty with a supplication which is free from anything wrong and asking for severance from his kin, without Allah granting one of three things: He readily grants him what he is asking for, or the like of it is stored for him as a reward in the hereafter, or He will turn away the like of it in evil from him. A man of the people said, "We do it a great deal." He said, "Allah has more (than you could ever ask for).”
 (Musannaf Ibn Abi Shaiba hadīth no.29170) ¹¹⁹

At times what we ask for may not be beneficial for us. We are not aware of the consequences of our choices. Some decisions we make can have an adverse effect on our lives. Allah knows the favourable and unfavourable. It is His sheer mercy that He does not give us what we are asking for. At times an impending calamity is about to befall us which could cripple us. It is from the vast mercy of Allah

¹¹⁹ قَالَ أَبُو سَعِيدٍ: قَالَ نَبِيُّ اللَّهِ: " مَا مِنْ مُسْلِمٍ يَدْعُو بِدَعْوَةٍ لَيْسَ فِيهَا إِثْمٌ، وَلَا قَطِيعَةٌ رَجِمَ، إِلَّا أَعْطَاهُ اللَّهُ مِنْهَا إِحْدَى ثَلَاثٍ: إِمَّا أَنْ يُعَجِّلَ لَهُ دَعْوَتَهُ، وَإِمَّا أَنْ يَدَّخِرَهَا لَهُ فِي الْآخِرَةِ، وَإِمَّا أَنْ يَكْثِفَ عَنْهُ الشُّوْءَ بِمِثْلِهَا "، قَالُوا: إِذَا نَكَّرَ يَا رَسُولَ اللَّهِ قَالَ: «اللَّهُ أَكْثَرُ» (مصنف ابن أبي شيبة رقم الحديث ٢٩١٧٠)

that He does not give us what we are asking for but instead he averts the affliction which is on the verge of grasping us.

To secure anything in this world we have to follow procedures and protocols. To be successful in a job interview, one has to present himself at the right time, be in the correct dress code, speak in acceptable manner and display a convincing attitude. Likewise in *du'ā*, one must follow the protocols and procedures to have his *du'ā* accepted.

The Prophet (salallahu alaihi wasallam) said,

“The slave continues to be answered, provided he does not pray for a wrong action or severance of kin, as long as he does not become over-impatient." It was said, "Messenger of Allah, what is over-impatience?" He said, "He says, 'I prayed and I prayed and I did not find Him answering me,' so he stops short at that and ceases making supplication." (Muslim hadith no.2735)¹²⁰

Imam Ghazālī (rahimahullah) mentions the following ten etiquettes for the acceptance of *du'ā*:

¹²⁰ عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ: «لَا يَزَالُ يُسْتَجَابُ لِلْعَبْدِ، مَا لَمْ يَدْعُ بِإِثْمٍ أَوْ قَاطِعَةٍ رَحِمَ، مَا لَمْ يَسْتَعْجِلْ» قِيلَ: يَا رَسُولَ اللَّهِ مَا الْإِسْتِعْجَالُ؟ قَالَ: يَقُولُ: «قَدْ دَعَوْتُ وَقَدْ دَعَوْتُ، فَلَمْ أَرِ يَسْتَجِيبْ لِي، فَيَسْتَحْسِرُ عِنْدَ ذَلِكَ وَيَدْعُ الدُّعَاءَ» (صحيح مسلم رقم الحديث ٢٧٣٥)

- 1) Making abundant *du'ā* in sacred and special times of acceptance. For example, on the day of *'Arafah*, *Jumu'ah*, in *Ramadhān* and in the last portion of the nights etc.
 - 2) To make *du'ā* in specific states. There are certain circumstances in which *du'ās* are readily accepted. Such as in the state of prostration, at the confrontation of two armies, at the time of rain, before and after *ṣalāh* etc.
 - 3) To face the *qiblah*, raise the hands and wipe the hands over the face upon completing the *du'ā*.
 - 4) To have the voice lowered.
 - 5) To invoke Allah *Ta'ālā* through words and sentences which the Prophet (ṣallallhu alaihi wasllam) taught us. It is undesirable to put a lot of effort to make our own rhymes and rhythms in *du'ā*.
 - 6) To display humblesness externally and have the heart submit totally.
 - 7) To have a firm conviction that Allah *Ta'ālā* will accept the *du'ā*. One should have full hope that Allah most definitely will respond to his/her prayer.
 - 8) To persist in *du'ā* and repeat each invocation at least three times.
 - 9) To commence the *du'ā* with the praise of Almighty Allah, sending blessings upon the Prophet (ṣallallahu alaihi wasallam) and to conclude the *du'ā* with the praise of Allah and blessings upon the Prophet.
 - 10) One must make sure he has sought the forgiveness of Allah and sincerely repented before asking Allah from His bounties.
- If one has oppressed anybody or hurt anyone, the oppressed person's forgiveness must be sought

immediately. *Tawbah* (repentance) is only valid when those whom we have wronged have pardoned us.¹²¹

^{١٢١} وقال الإمام أبو حامد الغزالي في "الإحياء": آدابُ الدعاء عشرة: الأول: أن يترصدَ الأزمانَ الشريفة، كيوم عَزَّة، وشهر رمضان، ويوم الجمعة، والثالث الأخير من الليل، ووقت الأسحار. الثاني: أن يعتَمَ الأحوالَ الشريفة، كحالة السجود، والتقاء الجيوش، ونزول الغيث، وإقامة الصلاة، وبعدها. قلتُ: وحالة رقة القلب. الثالث: استقبالُ القبلة، ورفعُ اليدين، ومسحُ بهما وجهه في آخره. الرابع: خفضُ الصوت بين المخافتة والجهرة. الخامس: أن لا يتكفَّ السجَّع، وقد فسَّر به الاعتداء في الدعاء، والأولى أن يقتصر على الدعوات المأثورة، فما كل أحد يُحسن الدعاء، فيخاف عليه الاعتداء. وقال بعضهم: ادعُ بلسان النلة والافتقار، لا بلسان الفصاحة والانطلاق، ويُقال: إن العلماء والأبدال لا يزيدون في الدعاء على سبع كلمات، ويشهد له ما ذكره الله سبحانه وتعالى في آخر سورة البقرة (رَبَّنَا لَا تُؤَاخِذْنَا ...) إلى آخرها [البقرة: ٢٨٦] لم يخبر سبحانه في موضع عن أدعية عباده بأكثر من ذلك. قلتُ: ومثله قولُ الله سبحانه وتعالى في سورة إبراهيم (صلى الله عليه وسلم): (وَإِذْ قَالَ إِبْرَاهِيمُ: رَبِّ اجْعَلْ هَذَا الْبَلَدَ آمِنًا...) إلى آخره [إبراهيم: ٣٥]. قلتُ: والمختار الذي عليه جماهير العلماء أنه لا حِجْر في ذلك، ولا تُكره الزيادةُ على السبع، بل يُستحب الإكثارُ من الدعاء مطلقاً. السادس: التضرُّع والخشوع والرغبة، قال الله تعالى: (لَنَنهَكَمُ أَنْ يَسَارِعُونَ فِي الْخَيْرَاتِ وَيَدْعُونَنَا رَغَبًا وَرَهَبًا وَكَانُوا لَنَا خَاشِعِينَ) [الأنبياء: ٩٠] وقال تعالى: (ادْعُوا رَبَّكُمْ تَضَرُّعًا وَخُفْيَةً) [الأعراف: ٥٥]. السابع: أن يجزم بالطلب، ويُوقن بالإجابة، ويصدق رجاء فيها، ودلائله كثيرة مشهورة. قال سفيان بن عُيينة رحمه الله: لا يمتنع أحدكم من الدعاء ما يعلمه من نفسه، فإن الله تعالى أجاب شرَّ المخلوقين إبليس، إذ قال: رب أنظرني إلى يوم يبعثون قالَ إِنَّكَ مِنَ الْمُنظَرِينَ) [الأعراف: ١٤ - ١٥]. الثامن: أن يُلح في الدعاء ويكرره ثلاثاً، ولا يستبطئ الإجابة. التاسع: أن يفتتح الدعاء بذكر الله تعالى. قلتُ: وبالصلاة على رسول الله (صلى الله عليه وسلم) بعد الحمد لله تعالى والثناء عليه، ويختتمه بذلك كله أيضاً.

In conclusion, one's *du 'ā* being accepted does not necessarily mean being given what was asked for. If a *du 'ā* is accepted, we could receive what was asked for, or an impending calamity can be averted, or the *du 'ā* can be reserved for us in the hereafter as reward.

Working at a gas station which sells alcohol

Q: I work at a gas station. It is a gas station and they sell there beer, wine, cigarettes. They make most of their money by selling gas. I work there as assistant manager and usually work in the morning. In the morning they don't really sell beer or wine, but cigarettes they sell all the time. Since I work there as assistant manager so I try my best to stay away from doing haram things there, like standing on the register, filling up the beer cooler and many other haram things but i cannot stay away from them all the time (I prefer to do halal things there like cleaning, making coffee, filling up the non alcoholic beverages cooler, fixing candies.). I also have to place grocery order twice a week there. I don't make the order of beer or wine but making cigarettes order is part of my job. Please help me.

A: We commend you for your concern regarding the source of your income.

العاشر: وهو أهتما والأصل في الإجابة، وهو التوبة، وردُّ المظالم، والإقبال على الله تعالى. (الأذكار ٥٥٦-٥٥٨ دار ابن كثير)

As a principle, two aspects are considered when analysing the Shari'ah compliancy of any job:

- 1) The nature of the job itself.
- 2) The source of the funds from which the employees will be remunerated.

You state you do the cleaning, make coffee, fill up the non alcoholic beverages cooler, fix candies and make orders for stock. These jobs you do at the gas station are of a *halāl* nature.¹²²

With regards to scanning alcohol at the register, it is permissible according to the view of Imām Abu Hanīfah. The person who stands at a register is merely handing over the item bought to the customer. The individual at the cash register is similar to one who transports wine. The opinion of Imām Abu Hanīfah regarding the transporter of wine is that it is permissible to do so. Such a job does not constitute to assistance in sin. The hadīth which states that the transporter of wine is accursed is referring to the one who intends sin when transporting the wine.¹²³ The cashier

¹²² وفي مجلة الأحكام العدلية مادة ٥٦٢ يجوز إجارة الآدمي للخدمة أو لإجراء صنعة ببيان مدة أو بتعيين العمل (ص ١٠٥ قديمي كتب خانه)

¹²³ وفي الاختيار لتعليل المختار (وَمَنْ حَمَلَ خَمْرًا لِيَقْتَرِيَ طَالِبٌ لَهُ الْأَجْرُ) وَقَالَا: يَكْفُرُ لِأَنَّهُ أَعَانَهُ عَلَى الْمَعْصِيَةِ. وَفِي الْحَدِيثِ: «لَعَنَ اللَّهُ فِي الْخَمْرِ عَشْرًا» وَعَدَّ مِنْهُمْ "حَامِلَهَا" وَلَهُ أَنَّ الْمَعْصِيَةَ شَرْبُهَا، وَلَيْسَ مِنْ ضَرُورَاتِ الْحَمْلِ وَهُوَ فِعْلُ فَاعِلٍ مُخْتَارٍ، وَمَحْمَلُ الْحَدِيثِ الْحَمْلُ لِقَصْدِ الْمَعْصِيَةِ حَتَّى لَوْ حَمَلَهَا يُرِيقُهَا أَوْ لِيَحْمِلَهَا جَارَ (ج ٢ ص ٣٩٤ دار قباء)

وفي تبين الحقائق (وَحَمْلُ خَمْرٍ لِيَقْتَرِيَ بِأَجْرٍ) أَي جَارَ ذَلِكَ أَيْضًا، وَهَذَا عِنْدَ أَبِي حَنِيفَةَ - رَحِمَهُ اللَّهُ -، وَقَالَا هُوَ مَكْرُوهٌ؛ لِأَنَّهُ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ - لَعَنَ فِي الْخَمْرِ عَشْرَةً، وَعَدَّ مِنْهَا حَامِلَهَا، وَلَهُ أَنَّ الْإِجَارَةَ

here does not intend sin, he merely intends to do his job and check out the item on behalf of the buyer.¹²⁴

Likewise, when filling up the beer cooler, you are not giving wine to anybody to drink. You are merely transporting it to another place. Hence, according to Imam Abu Hanīfah rahimahullah, this will also be permissible. According to Imam Abu Yūsuf and Imam Muhammad rahimahumllah, the above jobs do constitute in sin and will be regarded as assistance in sin. However, the view of Imam Abu Hanīfah rahimahullah is the stronger of the two views, hence it will be permissible.

The majority of the revenue is accrued by the sale of gas. Hence, the income is also ḥalāl.¹²⁵

عَلَى الْحَمْلِ، وَهُوَ لَيْسَ بِمَعْصِيَةٍ، وَلَا تَسَبُّبٍ لَهَا، وَإِنَّمَا تَحْصُلُ الْمَعْصِيَةُ بِفِعْلِ قَاعِلٍ مُخْتَارٍ، وَلَيْسَ الشَّرْبُ مِنْ ضَرُورَاتِ الْحَمْلِ؛ لِأَنَّهُ حَمْلُهَا قَدْ يَكُونُ لِلْإِزَاقَةِ أَوْ التَّخْلِيلِ فَصَارَ كَمَا لَوْ اسْتَأْجَرَهُ لِعَصْرِ الْعِنَبِ أَوْ قَطْفِهِ، وَالْحَدِيثُ مَحْمُولٌ عَلَى الْحَمْلِ الْمَقْرُونِ بِقَصْدِ الْمَعْصِيَةِ، وَعَلَى هَذَا الْخِلَافِ إِذَا آجَرَهُ دَابَّةً لِنَقْلِ عَلَيَّهَا الْحَمْرَ أَوْ آجَرَهُ نَفْسَهُ لِيَرْعَى لَهُ الْخَنَازِيرَ فَإِنَّهُ يَطْلُبُ لَهُ الْأَجْرَ عِنْدَ أَبِي حَنِيفَةَ - رَحِمَهُ اللَّهُ (ج ٦ ص ٢٩ مكتبة إمدادية)

^{١٢٤} وفي خلاصة الكلام في مسألة الإعانة على الحرام المعتمد في الفساد هو قصد المشتري لا البائع، فقال بعد ذكر المسألة: لا فساد في قصد البائع، فإن قصده التجارة بالتصرف فيما هو حلال لاكتساب الربح، وإنما المحرم والفساد في قصد المشتري اتخاذ الخمر منه (ص ١٩)

^{١٢٥} وفي الفتاوى البرازية غَالِبُ مَالِ الْمُهِدِيِّ إِنْ حَلَّالًا لَا بَأْسَ بِقَبُولِ هَدِيَّتِهِ وَكُلِّ مَالِهِ مَا لَمْ يَتَبَيَّنْ أَنَّهُ مِنْ حَرَامٍ؛ لِأَنَّ أَمْوَالَ النَّاسِ لَا يَخْلُو عَنْ حَرَامٍ فَيَعْتَبَرُ الْغَالِبُ وَإِنْ غَالَبَ مَالُهُ الْحَرَامَ لَا يَقْبَلُهَا وَلَا يَأْكُلُ (ج ٢ ص ٤٧٨ دار الكتب العلمية)

وفي الفتاوى الهندية أَهْدَى إِلَى رَجُلٍ شَيْئًا أَوْ أَصَافَهُ إِنْ كَانَ غَالِبُ مَالِهِ مِنَ الْحَلَالِ فَلَا بَأْسَ إِلَّا أَنْ يَعْلَمَ بِأَنَّهُ حَرَامٌ فَإِنْ كَانَ الْغَالِبُ هُوَ الْحَرَامُ يَنْبَغِي أَنْ لَا يَقْبَلَ الْهَدِيَّةَ وَلَا يَأْكُلَ الطَّعَامَ إِلَّا أَنْ يُخْبِرَهُ بِأَنَّهُ حَلَالٌ وَرِثَتُهُ أَوْ اسْتَقْرَضَتْهُ مِنْ رَجُلٍ كَذًا فِي الْيَتَابِيعِ (ج ٥ ص ٣٤٢ مكتبة رشيدية)

In conclusion, your job at the gas station is permissible and the income is also *halāl*. However, still try your utmost to stay away from the alcohol considering the view of Imam Abu Yūsuf and Imam Muhammad.

Sending someone for Haj if one has enough money for the Fardh Hajj

Q: If a person all his life never had enough money to go for Hajj but when he was old and sick he had enough money that made Hajj Fard. Is it Wajib for him to send someone to perform it for him while he is alive.

A: In principle, all of the necessary requirements for Hajj have to be met *at the same time* in order for Hajj to become obligatory. Therefore, if one does not have sufficient financial means, Hajj is not obligatory even though he is healthy. In a similar manner, if one has sufficient means for Hajj, but is so sick that he is not capable of performing Hajj, Hajj is neither mandatory nor does he have to send someone to perform on his behalf. This is of course for the one who attained sufficient means after he became sick. However if he attained enough wealth before the sickness, then after the sickness it is mandatory to

وكذا في فتاوى محمودية ج ١٦ ص ٥٦١-٥٦٠ إدارة الفاروق
وكذا في جامع الفتاوى ج ٦ ص ٣٥٥ إدارة تأليفات أشرفية
وكذا في إمداد الأحكام ج ٢ ص ٥٥١-٥٥٠ مكتبة دار العلوم كراتشي

send someone to perform Hajj on his behalf. 126 127

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Wearing Niqab during Hajj and giving Sadaqah

Q: While performing Hajj is it necessary that the Niqaab of a women does not touch her face while she is in Ihraam? Can she give some charity if she finds this difficult?

A: Leaving the face uncovered is part of the woman's Ihram. Nabi Sallallāhu Alaihi Wa Sallam has said:

“The Ihram of a female is in her face and the Ihram of a man is in his head.”

^{١٢٦} زبدة المناسك مع عمدة المناسك، ص ٢٧-٢٨: سعيد

^{١٢٧} وَمِنْهَا صِحَّةُ الْبَدَنِ فَلَا حَجَّ عَلَى الْمَرِيضِ وَالزَّيْمِ وَالْمُقْعَدِ وَالْمَفْلُوجِ وَالشَّيْخِ الْكَبِيرِ الَّذِي لَا يَثْبُتُ عَلَى الرَّاحِلَةِ بِنَفْسِهِ وَالْمَحْبُوسِ وَالْمَمْنُوعِ مِنْ قِبَلِ السُّلْطَانِ الْجَائِرِ عَنِ الْخُرُوجِ إِلَى الْحَجِّ لِأَنَّ اللَّهَ تَعَالَى شَرَطَ الْإِسْطَاعَةَ لَوْجُوبِ الْحَجِّ وَالْمُرَادُ مِنْهَا اسْتَطَاعَةُ التَّكْلِيفِ وَهِيَ سَلَامَةُ الْأَسْبَابِ وَالْأَلَاتِ وَمِنْ جُمْلَةِ الْأَسْبَابِ سَلَامَةُ الْبَدَنِ عَنِ الْآفَاتِ الْمَانِعَةِ عَنِ الْقِيَامِ بِمَا لَا بُدَّ مِنْهُ فِي سَفَرِ الْحَجِّ لِأَنَّ الْحَجَّ عِبَادَةٌ بَدَنِيَّةٌ فَلَا بُدَّ مِنْ سَلَامَةِ الْبَدَنِ وَلَا سَلَامَةٍ مَعَ الْمَانِعِ

وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُ فِي قَوْلِهِ عَزَّ وَجَلَّ { مَنْ اسْتَطَاعَ إِلَيْهِ سَبِيلًا } أَنَّ السَّبِيلَ أَنْ يَصْحَ بَدَنُ الْعَبْدِ وَيَكُونَ لَهُ ثَمَنٌ زَادَ وَرَاحِلَةٌ مِنْ غَيْرِ أَنْ يُحْجَبَ وَلِأَنَّ الثَّرْبَ وَالْعِبَادَاتِ وَحَبَّتْ بِحَقِّ الشُّكْرِ لِمَا أَنْعَمَ اللَّهُ عَلَى الْمُكَلَّفِ فَإِذَا مَنَعَ السَّبَبُ الَّذِي هُوَ التَّغَمُّةُ وَهُوَ سَلَامَةُ الْبَدَنِ أَوْ الْمَالِ كَيْفَ يَكُلِّفُ بِالشُّكْرِ وَلَا نِعْمَةً (بدائع الصنائع ج ٢، ص ٢٩٥: المكتبة الرشيدية)

^{١٢٨} قوله (صحیح البدن) أي سالم عن الآفات المانعة عن القيام بما لا بد منه في السفر فلا يجب على مقعد ومفلوج وشيخ كبير لا يثبت على الراحلة بنفسه وأعمى وإن وجد قائداً ومحبوس وخائف من سلطان لا بأنفسهم ولا بالنيابة في ظاهر المذهب عن الإمام وهو رواية عنها وظاهر الرواية عنها وجوب الإحجاج عليهم ويجزئهم إن دام العجز وإن زال أعادوا بأنفسهم (رد المحتار، ج ٢، ص ٤٥٩: سعيد)

In these times of corruption and evil, it is advisable that a woman in *Ihrām* covers her face in such a way that the covering cloth (*niqāb*) does not touch the face. That is by wearing a cap and drawing the *niqāb* from a distance away from the face. However if we suppose the *niqāb* does end up touching the face, then charity equivalent to the amount of *Sadaqatul Fitr* is due. And if she wears *niqāb* whilst touching her face for a complete day, a *Damm* (sacrificed animal) is due. ^{130 131}

Performing Hajj Badl for someone who has not done his Fardh Hajj as yet.

Q: Can a person who has not yet performed his Fardh Hajj perform Hajj-Badal? If he does, will he be absolved of his Fardh Hajj?

¹²⁹ إِحْرَامُ الْمَرْأَةِ فِي وَجْهِهَا وَإِحْرَامُ الرَّجُلِ فِي رَأْسِهِ (دار قطني, رقم الحديث ٢٧٦١, مؤسسة الرسالة)
¹³⁰ وليس للمرأة ان تنتقب وتغطي وجهها فان فعلت ذلك يوما كاملا فعليها دم (الجوهرة النيرة, ج ١, ص ٢١٨: مير محمد كنب خانه)
¹³¹ (فان فعلت) اي ما ذكر من تغطية الوجه (يوما فعليا دما, وفي الاقل صدقة) (حاشية ارشاد الساري الي مناسك الملا علي القاري, ص ٤٣٨: مؤسسة الريان)

A: It is permissible for a person who has not yet performed his own Fardh Hajj to perform Hajj-Badal (on behalf of someone else). However, this is Makrooh (disliked).¹³²

The person who is performing the Hajj-Badal will not be absolved of his Fardh Hajj since he is doing it on behalf of someone else.¹³³

Settlement discount on credit

Q: When purchasing goods on credit from a supplier, they offer you terms of 60 days or 90 days to pay. But if you pay them within 30 days, they offer you a settlement discount of 2.5 % or 5 %. Is it permissible to take that settlement discount?

١٣٢ وَالْأَفْضَلُ لِلْإِنْسَانِ إِذَا أَرَادَ أَنْ يُحِجَّ رَجُلًا عَنْ نَفْسِهِ أَنْ يُحِجَّ رَجُلًا قَدْ حَجَّ عَنْ نَفْسِهِ، وَمَعَ هَذَا لَوْ أَحَجَّ رَجُلًا لَمْ يُحِجَّ عَنْ نَفْسِهِ حَجَّةَ الْإِسْلَامِ يَجُوزُ عِنْدَنَا وَسَقَطَ الْحُجُّ عَنْ الْأَمْرِ، كَذَا فِي الْمَحِيطِ (الفتاوى الهندية (١/ ٢٥٧))

ومع هذا لو أجز رجلًا لم يحج عن نفسه حجة الإسلام يجوز عندنا، وسقط الحج عن الأمر (المحيط البرهاني في الفقه النعماني (٢/ ٤٧٨))

خير الفتاوى (١٥٦/٤) مكتبه امداديه ، فتاوى محموديه (٤٠١/١٠) ادارة الفاروق
١٣٣ ثُمَّ الصَّحِيحُ مِنَ الْمَذْهَبِ فِيمَنْ حَجَّ عَنْ غَيْرِهِ أَنَّ أَصْلَ الْحَجِّ يَقَعُ عَنِ الْمُحْجُوجِ عَنْهُ وَلِهَذَا لَا يَنْسَقُطُ بِهِ الْقَرْضُ عَنِ الْمَأْمُورِ وَهُوَ الْحَاجُّ (الفتاوى الهندية (١/ ٢٥٧))

ثم ظاهر المذهب أن الحج يقع عن المحجوج عنه (الهداية في شرح بداية المبتدي (١/ ١٧٨))
ومن أمره رجلان بأن يحج عن كل واحد منها حجة فأهل حجة عنها فهي عن الحاج ويضمن النفقة " لأن الحج يقع عن الأمر حتى لا يخرج الحاج عن حجة الإسلام (الهداية في شرح بداية المبتدي (١/ ١٧٩))
وَأَمَّا كَيْفِيَّةُ التِّيَابَةِ فِيهِ، فَذَكَرَ فِي الْأَصْلِ أَنَّ الْحَجَّ يَقَعُ عَنِ الْمُحْجُوجِ عَنْهُ (بدائع الصنائع في ترتيب الشرائع (٢/ ٢١٢))

If you could please give me an official answer from darul-iftaa, I would appreciate much.

A: It is permissible to purchase goods on a credit basis of 60 days or 90 days. If the creditor offers you a discount of 2.5% or 5% on early payment, that is his choice and prerogative. He is not legally bound to give you a discount. If he claims the full amount and does not give you a discount as agreed, he has the right to do so. If he does give a discount, that is his gesture of goodwill.

Swords of Rasulullah salallahu alayhi wasallam

Q: Our beloved Nabi salallahu alaihi wasallam owned quite a few swords during his Mubarak life (was it 11 in total?), and he named each one of them. Could you please give me the names of each sword, the meaning of each name and a brief description of the significance of each name?

A: Some scholars are of the opinion that the Prophet *salallahu alaihi wasallam* had 9 swords. The famous *Hanafi* jurist ‘allāmah Badr al-dīn al-‘Aynī is of the opinion that the Prophet *salallahu alaihi wasallam* had 10 swords. Muhammad ibn Yūsuf al-Sahihī ash-Shāmī *rahimahullah* states in his famous work in *sīrah* that the Prophet *salallahu alaihi wasallam*

had 11 swords.¹³⁴ The difference of opinion is based on the fact that each scholar narrated what he was aware of.

1) The sword *Dhul-faqār*:

Dhul-faqār means the one with holes or the one with protrusions. This sword is named *Dhul-faqār* because it has holes or protrusions on it.

It is the most famous of the swords; the Prophet *salallahu alaihi wasallam* acquired this sword from the spoils of war in the battle of *Badr*. It belonged to a non-Muslim al-'Ās ibn Munabbih who was killed in the battle of *Badr*. There is an opinion that this sword initially belonged to Sulaymān *alaihis salaam*, and was passed down eventually reaching the Prophet *salallahu alabi wasallam*. The Prophet *salallahu alaihi*

¹³⁴ وَكَانَتْ لَهُ عَشْرَةُ أَسْيَافٍ، وَالْمَشْهُورُ مِنْهَا: ذُو الْفَقَارِ، الَّذِي تَنْفَلُهُ يَوْمَ بَدْرٍ، وَهُوَ الَّذِي تَأَخَّرَ بَعْدَهُ، وَفِي (الْمَرْأَةِ): لَمْ يَزَلْ ذُو الْفَقَارِ عِنْدَهُ، صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، حَتَّى وَهَبَهُ لَعْلِي بْنِ أَبِي طَالِبٍ، رَضِيَ اللَّهُ تَعَالَى عَنْهُ، قَبْلَ مَوْتِهِ، ثُمَّ انْتَقَلَ إِلَى مُحَمَّدَ بْنِ الْحَنَفِيَّةِ، ثُمَّ إِلَى مُحَمَّدَ بْنِ عَبْدِ اللَّهِ بْنِ الْحَسَنِ بْنِ الْحُسَيْنِ، رَضِيَ اللَّهُ تَعَالَى عَنْهُمْ، (عمدة القاري شرح صحيح البخاري لبدر الدين العيني ج ١٤ ص ٣١ دار إحياء التراث العربي)

كَانَ لَهُ تِسْعَةُ سَيُوفٍ مِنْهَا ذُو الْفَقَارِ وَالْقَلْعِيُّ وَالبِتَارُ وَالحَتَفُ وَالمُخَذَّمُ وَالرُسُوبُ وَالقَضِيبُ وَهُوَ أَوَّلُ سَيْفٍ تَقَلَّدَ بِهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ (غاية السؤل في سيرة الرسول لدكتور محمد كمال الدين عز الدين علي ص ٥٨ عالم الكتب)

وقد كان له صلى الله عليه وسلم سيوف متعددة؛ فقد كان له:

سيف يقال له: (المثثور)؛ وهو أول سيف ملكه عن أبيه. وله سيف يقال له: (القضيب). وله سيف يقال له: (القلعي) - نسبة إلى قلع- موضع بالبادية. وله سيف يقال له: (البتار).

وسيف يدعى: (الحتف). وسيف يدعى: (المخذم)، بكسر الميم. وسيف يدعى: (الرسوب). وسيف يقال له: (الضمصامة). وسيف يقال له: (الآحيف). وسيف يقال له: (ذو الفقار). و (الفر): الحفر.

(وسائل الوصول الى شئائل الرسول ص ١٣٣ دار المنهاج)

wasallam gifted this sword to Sayyiduna Ali *radiallahu anhu* later.¹³⁵

2) The sword *Al-Ma'thūr*:

Linguistically *Al-Ma'thūr* means to be inherited. Rasulullah salallahu alaihi wasallam inherited this sword from his father's estate, hence this sword became known as 'the inherited one'. This is reported to be the first sword the Prophet *salallahu alaihi wasallam* owned. . It was this sword the Prophet *salallahu alaihi wasallam* had in his scabbard on his way to al-Madīnah al-Munawwarah. It is reported that this sword was made by the *Jinn*.¹³⁶

¹³⁵ تنفل سيفه ذَا الفقار في القَامُوسِ ذُو الفقار بِالْفَتْحِ سيف العَاصِ بن منبَة قتل يَوْمَ بدر فَصَارَ الى النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ثُمَّ صَارَ الى عَلِيٍّ كَرَّمَ اللهُ وَجْهَهُ اِثْنَيْ وَاثْنَمَا سَمِيَ بِهِ لِأَنَّهُ كَانَ فِي ظَهْرِهِ خُرُوزٌ يَشْبُهَةُ الْفَقَرَاتِ وَقَوْلُهُ تنفل الى اخذه لِنَفْسِهِ نَفْلًا أَيْ زِيَادَةً (إنجاح الحاجة شرح سنن ابن ماجه لمحمد عبد الغني المجدي الحنفي ص ٢٠٢ قديمي كتب خانه)

ذو الفقار: سمي كذلك؛ لأنه كان في وسطه حفر صغار، أو في وسطه مثل فقرات الظهر. وهو من أشهر أسيافه صلى الله عليه وسلم، وكان لا يكاد يفارقه ودخل به مكة يوم الفتح وهو الذي رأى فيه الرؤيا يوم أحد، وهو سيف سليمان بن داود عليهما الصلاة والسلام، أهدته بلقيس مع ستة أسياف، ثم وصل إلى العاص بن منبه بن الحجاج المقتول كافرا بدير، قتله علي ابن أبي طالب رضي الله عنه، وأخذ سيفه منه، ثم صار إلى النبي صلى الله عليه وسلم يوم بدر من الغنمة، وكان هذا السيف لا يفارقه في حروبه كافة. ويقال: إنه صار لأُمير المؤمنين علي ابن أبي طالب- كرم الله وجهه- في الجنة، ولعله: كان يأخذه منه في الحروب، أو أنه أعطاه له عند موته، (حاشية وسائل الوصول ليوسف بن إسماعيل بن يوسف التَّيْهَانِي)

ص ١٣٣ دار المنهاج)

¹³⁶ الأول: المأثور- وهو أول سيف ملكه، ورثه من أبيه، وقدم به المدينة، وهو الذي يقال إنه من عمل الحجر. وروى ابن سعد عن عبد المجيد بن سهل قال: قدم رسول الله صلى الله عليه وسلم المدينة في الهجرة بسيف كان لأبي [قثم] مأثور يعني أباه. (سبل الهدى والرشاد لمحمد بن يوسف الصالحي الشامي ج ٧ ص ٣٦٣ دار الكتب العلمية)

3) The sword *Qala 'iyyah*:

Qala 'iyyah is named after a place in the deserts. The Prophet *salallahu alaihi wasallam* acquired this sword from the booty of *Banu Qaynuqā'*.¹³⁷

4) The sword *Al-Battar*:

Al-Battār means the slaughterer. The Prophet *salallahu alaihi wasallam* acquired this sword from the booty of *Banu Qaynuqā'*.¹³⁸

5) The sword *Al-Hataf*:

Al-Hataf means death. The Prophet *salallahu alaihi wasallam* acquired this sword also from the booty of *Banu Qaynuqā'*. It is reported that this sword had a horn attached to it.¹³⁹

6) The sword *Al-Mikbtham*:

Al-Mikbtham also means the slaughterer. When the Prophet *salallahu alaihi wasallam* sent *Sayyiduna Ali radiallahu anhu* to destroy the idols of Tay, he found two swords next to the

¹³⁷ الثالث والرابع والخامس: أصابهم من سلاح بني قينقاع. وروى ابن سعد عن مروان بن أبي سعيد بن المعلى قال: أصاب رسول الله صلى الله عليه وسلم من سلاح بني قينقاع ثلاثة أسيايف: قلعية: بفتح القاف واللام ثم عين محملة نسبة إلى مرج القلعة بالبادية (سبل الهدى والرشاد لمحمد بن يوسف الصالحي الشامي ج ٧ ص ٣٦٤ دار الكتب العلمية)

¹³⁸ وسيف يدعى البتار، والبتار القاطع (وفي سبل الهدى والرشاد لمحمد بن يوسف الصالحي الشامي ج ٧ ص ٣٦٤ دار الكتب العلمية)

¹³⁹ وسيف يدعى الحتف: بالحاء المهملة، ثم تاء مثناة فوقية، ثم فاء. روى ابن سعد عن مجاهد وزيد بن أبي مريم قالوا: كان سيف رسول الله صلى الله عليه وسلم الحتف له قرن. (سبل الهدى والرشاد لمحمد بن يوسف الصالحي الشامي ج ٧ ص ٣٦٤ دار الكتب العلمية)

idols. One of these swords was *al-Mikbtham*. The Prophet *salallahu alaihi wasallam* gifted this sword to Sayyiduna Ali *radiallahu anhu*.¹⁴⁰

7) The sword *Al-Rasub*:

Linguistically means to plunge. The sword was named as *al-Rasub* as it would plunge into those hit with it. This sword was also taken as booty from the expedition on *Tay*. Like *al-Mikbtham*, the Prophet *salallahu alaihi wasallam* gifted this sword to Sayyiduna Ali *radiallahu anhu* also.¹⁴¹

8) The sword *Al- 'Adhb*:

^{١٤٠} السادس والسابع: أصابها من صنم لطى.

وروى ابن سعد عن مروان بن أبي سعيد بن المعلّى قال: كان عند رسول الله صلى الله عليه وسلم سيف يدعى المخدّم، وسيف يدعى رسوباً أصابها من الفلس، بضم الفاء، وسكون اللام (سبل الهدى والرشاد لمحمد بن يوسف الصالحى الشامي)

قَالَ ابْنُ إِسْحَاقَ: وَكَانَتْ فِلْسُ [١] لَطِيٍّ وَمَنْ يَلِيهَا بِجَبَلِي طَيٍّْ، بَغْنِي سَلْمَى وَأَجَاً. قَالَ ابْنُ هِشَامٍ: فَحَدَّثَنِي بَعْضُ أَهْلِ الْعِلْمِ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعَثَ إِلَيْهَا عَلِيَّ بْنَ أَبِي طَالِبٍ فَهَدَمَهَا، فَوَجَدَ فِيهَا سَيْفَيْنِ، يُقَالُ لِأَحَدِهِمَا: الرَّسُوبُ، وَلِلْآخَرِ: الْمَخْدَمُ. فَأَتَى بِهِمَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَوَهَبَهُمَا لَهُ، فَهُمَا سَيْفَا عَلِيٍّ رَضِيَ اللَّهُ عَنْهُ.

[١] كَذَا فِي الْأَصْنَامِ لِابْنِ الْكَلْبِيِّ، وَكَانَ أَنْفَا أَمْرٌ فِي وَسْطِ جَبَلِهِمُ الَّذِي يُقَالُ لَهُ أَجَا، كَأَنَّهُ تَفْشَالُ إِنْسَانٍ، وَكَانُوا يَعْبُدُونَهُ وَيَهْدُونَ إِلَيْهِ، وَلَا يَأْتِيهِ خَائِفٌ إِلَّا أَمِنَ عِنْدَهُ، وَكَانَتْ سَدَنَتُهُ تَبُو بُولَانَ.

وبولان هو الذي بدأ بعبادته. وفي الأصل: قلس (بالقاف)، وهو ضعيف. (سيرة ابن هشام ج ١ ص ٨٧ مكتبة ومطبعة مصطفى البابي الحلبي)

^{١٤١} وَالرَّسُوبُ: مَنْ رَسَبَ فِي الْمَاءِ إِذَا غَاصَ فِيهِ، لِأَنَّ ضَرْبَتَهُ تَغْوُصُ فِي الْمَضْرُوبِ بِهِ. (عيون الأثر

لابن سيد الناس، اليعمرى الربيعي ج ٢ ص ٣٨٨ دار القلم)

This also means to cut and hack. This sword was gifted to the Prophet *salallahu alaihi wasallam* by Sa'd ibn 'Ubādah *radiallahu anhu* in the battle of *Badr*.¹⁴²

9) The sword *Al-Qadhīb*:

This also means to slice and slash. The Prophet *salallahu alaihi wasallam* obtained this from the spoils of *Banu Qaynuqā'*. The sword is reported to have been slender and slim. The Prophet *salallahu alaihi wasallam* would at times lean on this sword and deliver the sermon.¹⁴³

10) The sword *Al-Samsāmah*:

This refers to a sharp cutting sword which does not curve or bend. This was a very famous sword which belonged to

¹⁴² وَكَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَدْ غَزَا إِلَى بَدْرٍ بِسَيْفٍ وَهَبَهُ لَهُ سَعْدُ بْنُ عُبَادَةَ يُقَالُ لَهُ الْعَصْبُ (المغازي للواقدي ج ١ ص ١٠٣ دار الأعلوي)
العصب - بفتح العين المهملة، وسكون الضاد المعجمة التناقضة وبالموحدة: السيف القاطع. (سبل الهدى والرشاد لمحمد بن يوسف الصالحى الشامي ج ٥ ص ٣٧٩ دار الكتب العلمية)
¹⁴³ التاسع: القضيبي بالقاف، والضاد المعجمة: أصابه من سلاح بني قينقاع. (سبل الهدى والرشاد لمحمد بن يوسف الصالحى الشامي ج ٧ ص ٣٦٤ دار الكتب العلمية)
(على أنه القضيبي المشقوق) أي الطويل الدقيق (الذي كان يمسكه عليه الصلاة والسلام) أي بيده حال القيام وعند خطبته للانام وموعظته لأصحابه الكرام، (شرح الشفا ج ١ ص ٥٠٣ دار الكتب العلمية)
وسيف يقال له القضيبي، من قضب الشيء: قطعه، فعمل بمعنى فاعل: أي قاطع. (السيرة الحلبية ج ٣ ص ٤٦١ دار الكتب العلمية)

'Amr ibn Ma'dikarib. The Prophet *salallahu alaihi wasallam* gifted this to Khalid ibn Sa'id ibn al-'Ās *radiallahu anhum*.¹⁴⁴

11) The sword *Al-Lahif*:

There is not much narrated regarding this sword. The Prophet *salallahu alaihi wasallam* owned a horse with a similar name.

A sign of loving someone is that you love everything that has a link to that person. True love for the Prophet *salallahu alaihi wasallam* demands we love everything he came into contact with, even if it was a sword he held for a single second. The value and blessings of a sword used by the Prophet *salallahu alaihi wasallam* is far greater than the value of all the swords in the world.

To gain the love of the Prophet *salallahu alaihi wasallam* we must adhere to the following:

- 1) Learn and study his life and lifestyle (sunnah)
- 2) Practice his *sunnah*
- 3) Recite abundant *salawāt*
- 4) Constantly remember the Prophet *salallahu alaihi wasallam*; his favours, sacrifice and love for his *ummah*.

¹⁴⁴ العاشر: الضمصامة: كانت لعمر بن معد كرب الزبيدي، فوهبها خالد بن سعيد بن العاص بن أمية بن عبد شمس بن عبد مناف بن قصي استعمله صلى الله عليه وسلم وكانت مشهورة عند العرب). سبل الهدى والرشاد لمحمد بن يوسف الصالحى الشامي ج ٧ ص ٣٦٤ دار الكتب العلمية) وزاد اليعمرى وغيره: الضمصامة، ويقال له: الضمصام -فتح المهمله، واسكان الميم فيها، السيف الصارم الذي لا ينثنى، كان سيف عمرو بن معدكرب، وكان مشهوراً، فوهبه صلى الله عليه وسلم - لخالد بن سعيد بن العاص (شرح الزرقاني على المواهب اللدنية بالمنح المحمدية ج ٥ ص ٨٨ دار الكتب العلمية)

May Allah Ta'āla grant us all the true love for the Prophet *salallahu alaihi wasallam*. *Amin*.

Hiring an Ahl e Hadeeth for muslim school girl

Q: Is it permissible for Muslim girls school in the UK (which has mature girls), to keep a Ahle Hadith (who is not religious) as the manager of the school and is it permissible to put him in the office of the school?

A: A manager of a school is responsible to administer the issues of the school. As such he holds a senior position with great power and influence. The impact of such a person's influence will definitely leave its mark on those around and under him.

Education of children is an Amānat. Generally children are naïve and vulnerable to whatever they are exposed to. They will absorb whatever they are taught. The sense of distinguishing between right and wrong is still not present. This is a time when this is created. What they learn will be carried by them in their lives. If proper values were instilled then this will be exemplified in their lives and the same would be said for the opposite.

“Verily this knowledge is religion, so be cautious in who you take your religion from.”¹⁴⁵

¹⁴⁵ إِنَّ هَذَا الْعِلْمَ دِينٌ ; فَانْظُرُوا عَمَّنْ تَأْخُذُونَ دِينَكُمْ

In order to nurture children with the correct philosophy and ways we should be very sensitive and selective in the type of people and environment we submit our children to.

If the manager or administrator of a school is one who's thinking and values are in line with the teachings of our *Prophet salallāhu 'alayhi wasallam*, Sahabah *radhiyabllālu 'anhum*, pious predecessors and elders *rahimabumullāh* who adhere to following a particular Mazhab, we can have a level of assurance that the development of our children are in safe hands. But where this is not the case, it is a cause of concern. We should always look at the best interest of our children and their Deen.

We make Dua Allah Ta'ālā guides our leaders and makes us the true flag bearers of Islam.

Gog Magog and Dajjal

Q: I am confused, has Dajjal arrived or not? Have Gog Magog arrived or not? Are the doors of Taubāh closed or not? Kindly remove my confusion.

A: The Hadith mentions 10 major signs and many minor signs of the Day of Judgement.

Some of the minor signs are:

1. Consumption of alcohol would prevail
2. Fornication will become widespread.
3. Lying will become the norm of the people.
4. Knowledge will be seized

5. Ignorance will overpower¹⁴⁶
6. Risings of tall skyscrapers would become a competition.¹⁴⁷
7. Competition in building Masājīd (when there will be no one to populate it with the zikr of Allah).¹⁴⁸
8. Disrespect towards parents and elders would become common. Etc.¹⁴⁹

Amongst the major signs, there are 10 of them:

1. The smoke
2. Emergence of Dajjāl
3. A fire which will drive the people from Yemen toward their place of ressuruction.
4. Emergence of Yajooj and Majooj
5. Three massive earthquakes will occur: In the East
6. In the West

¹⁴⁶ عَنْ أَنَسِ بْنِ مَالِكٍ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: " إِنَّ مِنْ أَشْرَاطِ السَّاعَةِ: أَنْ يَرْفَعَ الْعِلْمُ وَيَثْبُتَ الْجَهْلُ، وَيُشْرَبَ الْحُمْرُ، وَيُظْهَرَ الزَّيْنَا " صحيح البخاري (٢٧ / ١)

¹⁴⁷ قَالَ: فَأَخْبِرْنِي عَنِ السَّاعَةِ، قَالَ: «مَا الْمُسْتَوَلُّ عَنْهَا بِأَعْلَمَ مِنَ السَّائِلِ» قَالَ: فَأَخْبِرْنِي عَنْ أَمَارَتِهَا، قَالَ: «أَنْ تَلِدَ الْأُمَةُ رَجَبَتَهَا، وَأَنْ تَرَى الْحَفَاةَ الْغُرَاةَ الْعَالَةَ رِعَاءَ الشَّيْءِ يَتَطَاوَلُونَ فِي الْبُنْيَانِ» صحيح مسلم (٣٧ / ١)

¹⁴⁸ عَنْ أَنَسٍ، أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لَا تَقُومُ السَّاعَةُ حَتَّى يَتَبَاهَى النَّاسُ فِي الْمَسَاجِدِ» سنن أبي داود (١٢٣ / ١)

¹⁴⁹ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «إِذَا فَعَلْتَ أُمَمِي خَمْسَ عَشْرَةَ خَصْلَةً حَلَّ بِهَا الْبَلَاءُ» قِيلَ: وَمَا هُنَّ يَا رَسُولَ اللَّهِ؟ قَالَ: «إِذَا كَانَ الْمَغْتَمُ دَوْلًا، وَالْأَمَانَةُ مَغْنَمًا، وَالزَّكَاةُ مَغْرَمًا، وَأَطَاعَ الرَّجُلُ زَوْجَتَهُ، وَعَقَّى أُمَّهُ، وَبَرَّ صَدِيقَهُ، وَجَفَا أَبَاهُ، وَارْتَفَعَتِ الْأَصْوَاتُ فِي الْمَسَاجِدِ، وَكَانَ زَعِيمُ الْقَوْمِ أَرْذَلَهُمْ، وَكُرِّمَ الرَّجُلُ مَخَافَةَ شَرِّهِ، وَشُرِبَتِ الْحُمُورُ، وَلُبِسَ الْحَرِيرُ، وَاتَّخَذَتِ الْقَبَائِلُ وَالْمَعَارِفُ، وَلَعَنَ آخِرُ هَذِهِ الْأُمَّةِ أَوَّلَهَا، فَلْيَرْتَقِبُوا عِنْدَ ذَلِكَ رِيحًا حَمْرَاءَ أَوْ حَسَنًا وَمَسْحًا» سنن الترمذي ت شاكر (٤٩٤ / ٤)

7. In the land of Arabia
8. The emergence of the animal (*Dābbah*)
9. The descending of Isa (Alaihis Salām).
10. The rising of the sun from the West¹⁵⁰

In every era, due to the fitnā prevalent of that time, the Ulamā of that era felt that the Day of Judgement had drawn near.

Everyone has their own opinion regarding when Dajjāl will emerge. It is not necessary that every opinion is correct. Only Allah Subhānahu Wa Ta'alā possesses the knowledge of the unseen. One thing we know for sure is, Dajjāl will appear before the Day of Judgement.

We are not aware whether Dajjāl has emerged or not. Rather, we advise you to do all the things that can save one from Dajjāl and his fitnā. We advise you that you strictly adhere to the Shari'ah, practice upon the Sunnāhs of Rasullullah Sallallahu Alaihi Wa Sallam, recite the Qurān daily, perform Zikr and recite Surāh Kahf every Friday. The Prophet Sallallahu Alaihi Wa Sallam has mentioned in a Hadith:

¹⁵⁰ عَنْ حَدِيثِهِ بْنِ أَبِي عَاصِمٍ الْغِفَارِيِّ، قَالَ: كُنَّا قُعُودًا تَتَحَدَّثُ فِي ظِلِّ غُرْفَةٍ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَذَكَّرْنَا السَّاعَةَ، فَارْتَفَعَتْ أَصْوَاتُنَا، فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "لَنْ تَكُونَ - أَوْ لَنْ تَقُومَ - السَّاعَةُ حَتَّى يَكُونَ قَبْلَهَا عَشْرُ آيَاتٍ: طُلُوعُ الشَّمْسِ مِنْ مَغْرِبِهَا، وَخُرُوجُ الدَّابَّةِ، وَخُرُوجُ يَأْجُوجَ وَمَأْجُوجَ، وَالْجَحَالُ، وَعِيسَى ابْنُ مَرْيَمَ، وَالْدُّخَانُ، وَثَلَاثَةُ خُسُوفٍ، خَسْفٌ بِالْمَغْرِبِ، وَخَسْفٌ بِالْمَشْرِقِ، وَخَسْفٌ بِجَزِيرَةِ الْعَرَبِ، وَآخِرُ ذَلِكَ تَخْرُجُ نَارٌ مِنَ الْيَمَنِ، مِنْ قَعْرِ عَدْنٍ، تَسُوقُ النَّاسَ إِلَى الْمُحَسَّرِ" سنن أبي داود (١١٤ / ٤)

“Whosoever memorizes the first ten āyahs of Surah Kahf, will be saved against the fitnās of Dajjāl”... According to another narration it has been mentioned,...“Whosoever memorizes the last portion of Surah Kahf (will be saved against the fitnās of Dajjāl).

(*Sunnan Abi Dawūd* 4/ 117)¹⁵¹

Furthermore, the final moments of the acceptance of Duās are at two occasions.¹⁵²

1. At the time of death, before the soul reached the throat.
2. Before witnessing the rising of the sun from the West.

Should I desist from this intended marriage?

Q: I converted to Islām over a year ago. During my steps to converting, I was seeing a Muslim boy who helped me out very much. We have been hanging out with each for two years now, but never alone. I met his parents the evening before I converted and I went over to their house at least

¹⁵¹ عَنْ حَدِيثِ أَبِي الدَّرْدَاءِ، يَرْوِيهِ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، قَالَ: «مَنْ حَفِظَ عَشْرَ آيَاتٍ مِنْ أَوَّلِ سُورَةِ الْكَهْفِ، عُصِمَ مِنْ فِتْنَةِ الدَّجَالِ» قَالَ أَبُو دَاوُدَ: وَكَذَا قَالَ هِشَامُ الدَّسْتَوَائِيُّ، عَنْ قَتَادَةَ، إِلَّا أَنَّهُ قَالَ: «مَنْ حَفِظَ مِنْ خَوَاتِيمِ سُورَةِ الْكَهْفِ»، وَقَالَ شُعْبَةُ: عَنْ قَتَادَةَ «مِنْ آخِرِ الْكَهْفِ» (سنن أبي داود (١١٧/٤))

¹⁵² عَنْ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «إِنَّ اللَّهَ يَقْبَلُ تَوْبَةَ الْعَبْدِ مَا لَمْ يُغْرَضْ» سنن الترمذي ت شاكر (٥٤٧/٥)
عَنْ أَبِي هُرَيْرَةَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ تَابَ قَبْلَ أَنْ تَطْلُعَ الشَّمْسُ مِنْ مَغْرِبِهَا، تَابَ اللَّهُ عَلَيْهِ» صحيح مسلم (٢٠٧٦/٤)

once a week since then. Of course, they were not aware of the relationship I had with their son.

Finally, he told his parents he intended on marrying me. Now his parents don't even talk to me. His father said he does not want him to marry into a family that is not Muslim. His parents are lead to believe that I am unaware of his intentions. I really don't want to come between him and his family but I love him very much. I am so torn about what the best thing to do is so I did Istikhārah. I had three dreams that night that were basically the same: it is our wedding day, and the wedding does not take place because of something silly.

And his parents are not present in any of the dreams except one. So I feel that if I do decide to stay with him and get married, his father will not support it. But his mother is supportive (behind his father's back) by saying she wants him to be happy. She says she wants him to be happy and as long as I am religious and a good person that is all that matters. I feel that if I stay with him, his dad will not support us and this could destroy his family. Should I back off??

A: Alhamdullillāh, we are delighted to hear about your accepting Islām. We ask Allāh Taālā to grant you steadfastness.

Allāh Taālā has created life as a test. At times we are faced with pleasant situations and sometimes we go through difficult conditions. However, if we have the awareness of Allāh Taālā at all times and we firmly believe that Allāh

controls all situations, then going through the apparently narrow roads of life will be easy.

You have stated that the boy's parents are not informed of the relationship he has with you. Concealing such vital information will have a negative effect on your plans for marriage. In marriage issues, it is not safe to play "duck and dive". The boy's parents must have a complete overview of the situation in order to make an informed decision. Therefore we advise you to get the message across to his parents of your relationship with each other. This may be done personally or by contacting an influential personality from his family and ask him/her to clarify the situation to his parents.

Nevertheless, despite your final efforts if the father is stern in his denial, you should back down. This will be in the best interest of both of you. Marriage is a big step in life. It is making another person to be part of you. Your happiness and otherwise depends on the type of person you marry. Do not submit to a big step as marriage without satisfying yourself having made the correct decision.

Shaykhul Hadith Hazrat Maulana Fazlul Rahman Sahib (db) at Darul Iftaa

**Shaykh al-Hadith Hadhrat Maulana Fadhl ar-
Rahmaan Sahib (Daamat barakatuhum)
at the Darul Iftaa
discusses
Ulama of Deoband-Iftaa- Jamiat-Ikhlaas**

Alhamdulillah, the Darul Iftaa was blessed with the visit of Shaykh al-Hadith Hadhrat Maulana Fadhl ar-Rahmaan Sahib (Daamat barakatuhum) on Friday 25th November 2011. Hadhrat was accompanied with other Ulama, most of whom are his students.

Hadhrat Mufti Ebrahim Desai Sahib (Daamat barakaatuhum) requested Hadhrat Shaykh Sahib to offer some advice.

Hadhrat Shaykh Sahib (Daamat barakatuhum) imparted the following precious advices:

Where ever we are and where ever we go, we need to beseech Allah Ta'ala that He makes us a key for opening the doors of virtue and locking the doors of vice (مفتاح للخير ومغلاق للشر). Shaykh al-Arab wal-'Ajam Maulana Abul Hasan Ali an-Nadwi rahimahullah once visited our madrasah in Moa during our student days. He stated,

“I have read countless reports and accounts of history, I have come to the conclusion that whosoever adopts two

features, the world will fall on its knees for him. The two features are:

- 1) Exceptional capability (غیا قابلیت)
- 2) Genuine spirituality (سچی روحانیت)

These two qualities were apparent in all the Prophets of Allah. They had excellence in the contemporary art of their time.”

These two qualities were visible in our Ulama of Deoband. They had command over the different sciences and disciplines. They were authorities in syntax, grammar, exegesis (tafseer), hadith and jurisprudence (fiqh). They were academics and sages of their time. Their research was profound and deep. Their works carry substance resulting in millions depending on their works.

Likewise, we need to follow in their footsteps and exert all our energy in acquiring external distinction under the supervision of the experts in the respected sciences. A student of knowledge should not be weak hearted and lacking purpose. He should be ambitious and aspire to transcend the stars.

The wish which should be burning in our hearts is that how can complete Deen come in the life of every human on the surface of this earth. Only when we practice deen totally will we taste true prosperity.

We can safely say our Ulama of Deoband possessed genuine spirituality. They were absorbed in the zikr of Allah Ta’ala,

immersed in the recitation of the Qur'an, devoted to spending the nights on the musalla and living a life of taqwa and piety. Their external appearance was radiant with the sunnah and beautified with humility. They were extremely cautious and not audacious.

The field of Iftaa is necessary yet hazardous and perilous. At times some muftis are ready to issue fatwa merely for a meagre monetary gain. When a person is deficient in genuine spirituality, he measures everything according to materialistic gain. He will give in easily for worldly gain. In the world there are those muftis who issue rulings on weak opinions. Hence, this work of Iftaa is a great responsibility and very delicate. One who traverses this path has to remain independent and autonomous from others. Only then will he proclaim the truth without fearing any reproach. However, when propagating the truth, wisdom and diplomacy is vital. The person should believe that he is being advised for his own interest.

Hadhrat Maulana Qasim Nanotwi rahimahullah would not issue rulings; he would send the questioners to another scholar. He would not even lead a congregation in salaah. He would often say,

“How easy is it to perform salaah behind someone else and how much of a responsibility is it to lead the congregation.”

Obviously, not everybody can display this attitude or else the field of Iftaa will cease to exist. Where will people go if everybody evades issuing rulings? We should research and delve deep into the masaa'il keeping the element of

precaution ever present. All the cumbersome work in the field of Iftaa has been executed already by our senior ulama. Only in the contemporary issues will we have to exert and exhaust our resources to reach a ruling on that particular matter. However, it is here one should be reserved and harbour extreme caution.

Our Hadhrat Maulana A'zami rahimahullah was a very great mufti. He was asked primarily in many contemporary issues. When the fatwa against Shias was published in al-Furqaan during the Iranian Revolution, Many people were deceived into believing an Islamic state and Islam had finally come in the horizon. Hadhrat Maulana Manzur Numani rahimahullah penned a book exposing the stark reality of Shias and unmasking the true face of the Iranian Revolution. How can Shism coming to the forefront equate to the coming of Islam? He enumerated the true beliefs of the Shias which produced great shock in the masses. When I read this book I was not startled or surprised. My teachers were well versed regarding Shiasm. Hadhrat Maulana Habeeb al-Rahmaan A'zami and Hadhrat Maulana Abdul Lateef Nu'mani rahimahumallah would discuss various issues upon the completion of a day's lesson. They would disclose to us the reality of the Shias making reference to their very own texts.

My teacher would say, from all those who call themselves Muslims, the worst and the most evil of them is the Shia. When the revolution occurred, people sought guidance and a fatwa with regards to the Shias. The first

Alim who was consulted on this was my teacher, Hadhrat Maulana Habeeb al-Rahmaan rahimahullah. Maulana Manzur Nu'maani was the student of Maulana Habeeb al-Rahmaan rahimahullah. After that, dozens of Muftis issued rulings against the Shias. These fatawa highlighted the beliefs which nullified their Islam. These fatawa expounded on their erroneous and flawed beliefs like the belief of Imamah, the belief that the Quran was distorted, rejecting Sayyiduna Abu Bakr and Sayyiduna Umar radiallahu anhuma as sahabah, differing with the fact of Sayyidah Aisha radiallahu anha's innocence etc.

Once in a meeting of Jamiutul Ulama, Hadhrat Maulana Hussain Ahmed Madani rahimahullah declared that if there is any difference of opinion in our assembly, then the final verdict will be the view of Hadhrat Maulana Habeeb al-Rahmaan Sahib rahimahullah.

One should issue a fatwa only after extensive research and total contentment. Even after the fatwa is passed, one should fear the possibility of erring. If at any time one makes a mistake, then there should be no hesitation at all in revoking one's opinion. Our work and services are based on ikhlaas and sincerity. We do all that we do only for Allah. This will only come when genuine spirituality is attained.

We should always supervise and scrutinise our personal actions. Our deeds must be moulded onto the sunnah. This is also a fundamental feature of the lives of the pious. If our lives are void of sunnah, then even sincerity (ikhlaas) will be of no avail.

These were some of the pearls of wisdom imparted by Hadhrat Shaykh al-Hadith Maulana Fadhl ar-Rahmaan Sahib (Daamat barakatuhum). Allah Ta'ala give us the ability to practice on the words of Hadhrat. Ameen.

Wazeefa for having offspring.

Q: I have a question. I have two daughters and no son, kindly tell me any wazifa for aulade narina (male offspring.)

A: Allah the Almighty states in the Holy Qurān:

لِلّٰهِ مُلْكُ السَّمَاوَاتِ وَالْأَرْضِ يَخْلُقُ مَا يَشَاءُ يَهَبُ لِمَنْ يَشَاءُ إِنَآثًا وَيَهَبُ لِمَنْ يَشَاءُ الذَّكَوْرَ أَوْ يَرْوِّحُهُمْ ذَكَرًا وَإِنَآثًا وَيَجْعَلُ مَنْ يَشَاءُ عَقِيْمًا إِنَّهُ عَلِيْمٌ قَدِيْرٌ

“The sovereignty of the Heavens and the Earth belong solely to Allah. He creates what He wills and He grants female offspring to whom He wishes and He grants male offspring to whom He wishes. Or He bestows upon some both male and female and makes barren who He wishes. Verily He (Allah) is All-knowing, Almighty.”

(Qur'an 42:49)

We understand from the above quoted verse that Allah alone blesses one with children; male, female or both. You should be eternally grateful to Allah that He has blessed you with two daughters.

There is nothing wrong in desiring male offspring. One may adopt all possible means to have male children and pray to Allah for ones wish to be granted. Even the Prophets of Allah desired to have children and supplicated to Allah.

Hazrat Zakariyyah *alaihis salaam* and Ibrāhīm *alaihis salaam* had reached an age where most people would despair having children. These Prophets knew that Allah controls everything. Allah is the one that gives and takes life. When Allah wishes a child to be born, there is no strength or power in the universe that can prevent the birth from taking place. Similarly, when Allah does not wish for a woman to conceive or give birth, there is no force in the universe that can make this happen. This is the belief that we need to engrave, etch and instil into our hearts.

Allah Ta'ālā mentions the following two *duā's* of Hazrat Zakariyyah *alaihis salaam* in the Holy Qurān:

رَبِّ لَا تَذَرْنِي فَرْدًا وَأَنْتَ خَيْرُ الْوَارِثِينَ

(Hazrat Zakariyyah *alaihis salaam* said) “Oh my Lord, do not leave me alone (childless); when you are the best of inheritors.”

(Qur'an 21:89)

رَبِّ هَبْ لِي مِنْ لَدُنْكَ ذُرِّيَّةً طَيِّبَةً إِنَّكَ سَمِيعُ الدُّعَاءِ

(Hazrat Zakariyyah *alaihis salaam* said) “Oh my Lord, grant me from your bounty pious children, Verily you are the Listener of all prayers.”

(Qur'an 3:38)

Allah Ta'ālā also mentions two *duā's* of Hazrat Ibrāhīm *alaihis salaam* in the Holy Qurān:

رَبِّ هَبْ لِي مِنَ الصَّالِحِينَ

(Hazrat Ibrāhīm *alaihis salaam* said) “Oh my Lord, grant me a righteous child”

(Qur'an 37:100)

الْحَمْدُ لِلَّهِ الَّذِي وَهَبَ لِي عَلَى الْكِبَرِ إِسْمَاعِيلَ وَإِسْحَاقَ إِنَّ رَبِّي لَسَمِيعُ الدُّعَاءِ

(Hazrat Ibrāhīm alaihis salaam said) “All praise if for Allah who granted me Ismā‘il and Ishāq despite my old age. Verily my Lord is the Hearer of prayers.”

(Qur'an 14:39)

Allah Ta‘ālā accepted the *duā*’s of Hazrat Zakariyyah alaihis salaam and granted him a son, Yahya alaihis salaam. Allah Ta‘ālā also granted Ibrāhīm alaihis salaam Ismā‘il and Ishāq alahim as salām.

Anyone that wishes to have children should adopt the method of the *Ambiyā* (prophets) and make the *duā*’s they made. Another practice that you may find fruitful is to abundantly ask Allah Ta‘ālā for forgiveness.

Allah the Almighty state in the Holy Qurān:

فَقُلْتُ اسْتَغْفِرُوا رَبَّكُمْ إِنَّهُ كَانَ غَفَّارًا يُرْسِلُ السَّمَاءَ عَلَيْكُمْ مِدْرَارًا وَيُبَدِّلْكُمْ بِأَمْوَالٍ وَبَنِينَ

(Nūh alaihis salaam said) I told the people “Seek forgiveness from your Lord verily He is most forgiving. He will send forth abundant showers (rain) from the skies and He will provide you with wealth and children...”

(Qur'an 71:10-11)

One should recite the aforementioned duas, add their own *duā*’s (ask for a certain gender if they want...) and seek forgiveness abundantly and Inshā-Allah, Allah will grant them pious children.

After making *dua*, we have to submit our desires to the will of Allah. This attitude will bring contentment and satisfaction to our hearts.

The mother of Hazrat Maryam *alaihas salaam* asked Allah Ta'ālā for a male child¹⁵³ so that she could send him in the path of Allah, but Allah Ta'ālā granted her a female. As a female, the *Ummah* of Rasulullah *sallallahu alaihi wasallam* admires this great personality as being the mother of Hazrat Isa *alaihis salaam*. The lesson for us in this is that Allah Ta'ālā does whatever Allah knows to be best.

Allah the Almighty says:

عَسَىٰ أَنْ تَكْرَهُوا شَيْئًا وَهُوَ خَيْرٌ لَّكُمْ وَعَسَىٰ أَنْ تُحِبُّوا شَيْئًا وَهُوَ شَرٌّ لَّكُمْ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ
"It may be that you dislike a thing while it is good for you and you may love a thing while it is bad for you. And Allah knows what is most beneficial for you and whereas you do not."
 (Qur'an 2:216)

¹⁵³ حدثنا به ابن حميد قال، حدثنا سلمة قال، حدثني محمد بن إسحاق قال: تزوج زكريا وعمران أختين، فكانت أم يحيى عند زكريا، وكانت أم مريم عند عمران، فهلك عمران وأم مريم حامل مريم، فهي جنين في بطنها. قال: وكانت، فيما يزعمون، قد أمسك عنها الولد حتى أسنت، وكانوا أهل بيت من الله جل ثناؤه بمكان. فبينما هي في ظل شجرة نظرت إلى طائر يطعم فرخاً له، فتحرّكت نفسها للولد، فدعت الله أن يهب لها ولداً، فحملت مريم، وهلك عمران. فلما عرفت أن في بطنها جنيناً، جعلته لله نذيرة و"النذيرة"، أن تعبد الله، فتجعله حبيساً في الكنيسة، لا ينتفع به شيء من أمور الدنيا. (تفسير الطبري، سورة ٣، آية ٣٥، مؤسسة الرسالة)

We are our own enemies!

Q: It is really painng me to see what the enemies of Islam are doing to Muslims. I would like to know how to avenge the muslims?

A: You imply from your query that the root of the problems of the ummah are the enemies of Islam. This is just one dimension of a multi-dimensional problem facing the ummah.

When searching for a solution in a problem, it is vital that the problem is carefully diagnosed. It is only then that a solution can be considered. If the diagnosis is wrong, no amount of solution will be effective.

It is true that we have enemies and they are out to attack us. Islam had enemies right from its inception. For Islam and Muslims to be triumphant we have to be balanced and avoid emotions in reaching conclusions. Why cannot we consider that we are our own enemies and responsible for our own problems?

Today every sin is common in the Ummah. Pornography is widespread in Muslim states, gambling is the past time of today, wine is being consumed like water, interest based transactions is the way we are making our livelihood and the list goes on. Our love for this worldly life has become so intense that to acquire a few Dollars and Pounds, we are ready to sacrifice all values and principles. Greed has filled our veins. Jealousy has saturated our hearts.

Today's predicament is nothing new in the Ummah. The Muslims in Spain were hit with a wave of tribulations. The Muslims of Mesopotamia were hit by the Tartars. Many other assaults have occurred on the Muslim nation. The same reason which triggered these events has triggered the events we see unfolding daily.

If lack of numbers was the reason, we would not be facing problems as we are approximately 1.3 billion in number. If lack of wealth was the cause, then the Middle Eastern countries possess the most oil reserves. The Muslims in Spain and Mesopotamia possessed similar numbers and boasted a booming economy, yet they were tested.

When the Muslims practiced on every letter of the Qur'ān and implemented the lifestyle of the Prophet salallahu alaihi wasallam, the world humbled herself in front of them. The kings surrendered to the leaders of the Muslims. The civilisations opposing them ceased to exist.

The greatest needed of the time is to revive the hearts. The love of Allah and the life hereafter have to be more beloved to us than the whole world and what it contains.

If we want once again the flag of Islam to rise high, we have to undergo spiritual reformation.

All negative behaviour displayed by any human is due to the corruption of the heart. All problems in the society are primarily based on the lack of self reformation. Fights occur between people due to people being arrogant and proud. Theft and burglary is committed due to intense

greed. Oppression is committed due to self conceit. Weakness in faith and a lack of resolve is induced by love for this world. Thus, it becomes quite apparent that all forms of oppression and injustice is predominantly due to a person bearing negative attributes.

All actions transpire after the thought of it crosses the mind and the heart settles on executing it. If a person has subdued his base desires, his heart which is ever conscious of Almighty Allah will at once inhibit any thought of evil. If the base desires have been left without a leash, then a person will pounce upon every act his heart desires, resulting in turmoil.

The Prophet (salallahu alayhi wasallam) said,

“Verily, there is in the body a small piece of flesh; if it is good the whole body is good and if it is corrupted the whole body is corrupted; lo! It is the heart.”¹⁵⁴

To alter or rectify anything, one has to consult with a specialist in that field. For car breakdowns there are mechanics. For computers there are technicians. To get a car moving again, it has to be repaired by a mechanic. To overcome a virus or malfunction, the computer has to be repaired by a technician. Likewise, to rectify the ills of the heart, we have to consult and seek the guidance of scholars trained in the field of *Tazkiyah* (spiritual purification).

¹⁵⁴ وَإِنَّ فِي الْجَسَدِ مُضْغَةً: إِذَا صَلَحَتْ صَلَحَ الْجَسَدُ كُلُّهُ، وَإِذَا فَسَدَتْ فَسَدَ الْجَسَدُ كُلُّهُ، أَلَا وَهِيَ الْقَلْبُ " (صحيح البخاري رقم الحديث ٥٢)

If a constant effort for spiritual rectification is made on a micro-level, the effects of this will be evident on a macro-level. Every person must engage in pro-actively in rectifying himself in order to save himself and others of all forms of oppression.

Allah Ta'ālā grant us victory and alleviate the problems we are facing. Amīn.

Use of botox for beauty purpose as well as its medicinal use

Q: I am a general practioner in UK . My question is it permissible to practice give Botox injections, facial peels, dermabrasions. Mostly done for patients to look younger and good looks. I am mainly thinking of doing it for earning extra money {being honest} I would like to know If its allowed or not.

What would be the answer if the need is for medicational use?

A: Botox (Botulinum Toxin Type A) is by nature a poisonous toxin. It has been approved by FDA in US for specific medicinal use, however it has gained more popularity in the cosmetic surgeries. ¹⁵⁵

¹⁵⁵“FDA has approved Biologic License Applications (BLAs) for two botulinum toxin type A products (Botox/Botox Cosmetic and Dysport) for clinical use.” [Re: Docket No. FDA-2008-P-0061](#)

Botox serum uses enzymes from pig's milk in its initial stage which is later on purified through industrial process.¹⁵⁶ Although the serum may be clinically categorized void of these enzymes in its final product form, it will still be considered an **impure** substance according to Shariah.

Moreover, Botox has been clinically classified as a lethal toxin which if consumed in larger quantities can have devastating effects. Even in the lower medicinal usage, it is not free from some side effects. In some cases it may lead to problems in swallowing, speaking, or breathing, all-over muscle weakness, double vision, blurred vision and drooping eyelids, hoarseness or change or loss of voice (dysphonia), trouble saying words clearly (dysarthria), loss of bladder control, trouble breathing.¹⁵⁷ While these may be isolated conditions, they are sufficient enough for the FDA (Food and Drug Administration) to issue caution against Botox usage.¹⁵⁸

It was perhaps this vital information which pushed many Ulama, locally in South Africa, as well as internationally (Malaysia) to rule against Botox.¹⁵⁹

¹⁵⁶ [Muslim Council bans Botox, January 15 2008](#) accessed Nov. 23 2011.

¹⁵⁷ <http://www.botox.com/> accessed Nov. 23, 2011

¹⁵⁸ [FDA Notifies Public of Adverse Reactions Linked to Botox Use](#) accessed Nov. 23, 2011

¹⁵⁹ [Muslim Council bans Botox, January 15 2008](#) accessed Nov. 23 2011. ; [Malaysian Muslims told not to use Botox, July 18 2006](#) accessed Nov. 30 2011;

While many people have used Botox for beauty treatments it has been equally popular in the medical field. Since Botox is essentially a toxin with the ability to weaken or dampen the response in muscles, it has been targeted by many doctors as a temporary relief medication for illnesses due to spasmodic muscles. Some of the practical medical uses for Botox in practice are treatment for inflammation in specific areas, controlling bleeding after intramuscular injection, excessive weakness or wasting in the muscle, swallowing difficulties (dysphagia) or liquid accidentally going into the lungs (aspiration), chronic breathing problems, Diseases or conditions affecting the nervous system, seizures like epilepsy, closed angle glaucoma(eye disease) etc.¹⁶⁰

The medicinal usage is still not void of the potential harmful side effects that could emerge from using this serum, hence, Shariah affords a balanced approach towards its usage. The rules of Shariah are more relaxed in the case of medical need and necessity. However such relaxation is also governed closely by rules. In principle:

*Necessity renders the restrictions permissible*¹⁶¹

And

*Necessity warrants (permissibility of the restricted) to the extent of (one's) necessity.*¹⁶²

¹⁶⁰ <http://www.netdoctor.co.uk/medicines/100000363.html>
accessed Dec. 01 2011.

¹⁶¹ ففي الأَشْبَاهِ وَالنَّظَائِرِ لِابْنِ نَجِيم (ص: ٧٣) الصَّرُورَاتُ تُبَيِّحُ الْمُحْظُورَاتِ

Hence, the use of an impure Botox serum will become permissible for medicinal use **only if**,

- i. The experts of the field opine the need for such a medicine¹⁶³
- ii. There is no halal alternative available

As a doctor one will be responsible in providing a permissible or impermissible service to the consumer. If there is a suitable alternative for skin care treatments then that avenue should be adopted.

It is **not** permissible to use an impure substance to beautify one self. Since Botox is impure because of the use enzymes from pig's milk it will be impermissible to use it for purely beatification purposes.

Facial Peels and dermabrasions or other cosmetic procedures.

Facial peels and dermabrasions are skincare procedures which use various techniques like exfoliation of upper layers of skin to rejuvenate a healthier and smoother skin. These procedures are permissible provided that,

- i. The creams or lotions used do not contain impure or impermissible substance;

¹⁶² فى المرجع السابق : مَا أُبِيحَ لِلصَّرُورَةِ يَقْدَرُ بِقَدْرِهِ
¹⁶³ فى الدر المختار وحاشية ابن عابدين (رد المختار) (٢١٠ / ١) (قَوْلُهُ أُخْتَلِفَ فِي التَّدَاوِي بِالْمَحْرَمِ)
فَفِي النَّبَايَةِ عَنِ الدَّخِيرَةِ يَجُوزُ إِنْ عَلِمَ فِيهِ شِفَاءٌ وَلَمْ يَعْلَمْ دَوَاءً آخَرَ

- ii. The procedure does not aim at changing the physical features.¹⁶⁴
- iii. The procedure is not harmful to one's health.

At the same time, we also caution that venturing into the skincare procedures should not compromise the general Shar'ī work ethos (i.e. unnecessary gender interaction etc).

Istikhara for seeking khulaa

Q: Is it alright to do istikhara for a case where a woman wants to know whether she should take khulaa'. The husband is refusing to give talaq and after marriage of 10 years she is saying she doesn't love the husband anymore.?

A: It is in the best interest of a couple that they try to maintain their marriage as far as possible. Only after exhausting all other avenues of reconciliation should a spouse consider the option of separation or divorce. Separation between spouses should be a last resort. This is due to the severity of divorce being mentioned by Nabi *salallahu 'alayhi wasallam*.

Nabi *salallahu 'alayhi wasallam* mentions,

"The most despised permissible thing to Allah is Divorce."

Ibn Majah hadith no.2018 ¹⁶⁵

¹⁶⁴ The prohibition excludes corrective procedures to rectify abnormalities. More information on this can be read in [Fatwa #19172](#)

In another Hadith Nabi *salallāhu ‘alayhi wasallam* said,

“Verily Satan places his chair on water. Thereafter he deposes his armies the lowest ranking amongst them is the greatest in causing mischief. One of them comes and says “I did such and such.” So Satan replies, “You have not done anything.” Thereafter another comes and says “I did not leave him until I caused him to separate from his wife.” So Satan brings him closer and says “Indeed you are great.”

*Muslim 4/2167*¹⁶⁶

In view of this Hadith and others carrying a similar purport, the Ulama mention seeking divorce without a valid *Shari'* excuse is a great sin. This is whether divorce is given from the husband or whether it is sought from the wife.

In another Hadith Nabi *salallāhu ‘alayhi wasallam* warns those women who seek divorce without a justifiable cause.

“Any woman who seeks divorce unnecessarily, then even the scent of paradise is unlawful for her.”

*Tirmizi 3/485*¹⁶⁷

¹⁶⁵ أَبْعَضُ الْحَالِ إِلَى اللَّهِ الطَّلَاقُ (ابن ماجه رقم الحديث ٢٠١٨)
¹⁶⁶ إِنَّ إِبْلِيسَ يَضَعُ عَرْشَهُ عَلَى الْمَاءِ، ثُمَّ يَبْعَثُ سَرَايَاهُ، فَأَذْنَاهُمْ مِنْهُ مَرْلَةٌ أَعْظَمُهُمْ فِتْنَةً، يَجِيءُ أَحَدَهُمْ فَيَقُولُ: فَعَلْتُ كَذَا وَكَذَا، فَيَقُولُ: مَا صَنَعْتَ شَيْئًا، قَالَ ثُمَّ يَجِيءُ أَحَدُهُمْ فَيَقُولُ: مَا تَرَكْنَاهُ حَتَّى فَرَّقْتُ بَيْنَهُ وَبَيْنَ امْرَأَتِهِ، قَالَ: فَيُذْنِيهِ مِنْهُ وَيَقُولُ: نَعَمْ أَنتَ

The woman in question has been married for ten years. Her husband in the past has refused to give her Talaq. It seems as though the husband wishes to maintain the marriage. We suggest this woman first attempt to resolve the issues she has with her husband. This should be done by approaching appropriate individuals who would be able to objectively assist both spouses.

If after having exhausted efforts in reconciliation, the wife finds no solution to her marital problems, she should consult the seniors of her family as well as make *Istikhara* before taking any step.

May Allah Ta'ālā guide the woman in reference. Aameen.

Travelling to Dead Sea

Q: I have a question relating to my upcoming visit to Jordan. One of the areas which is a tourist attraction in Jordan is the city of Aqaba and the nearby Dead Sea. I have heard that it is impermissible to visit the Dead Sea or even to use any product manufactured from its water or salt on account of its historical association with homosexuality and the destruction of its occupants (I think it was the people of Lut Allai Salaam?)

A: The Dead Sea lies between Bayt al-Maqdis and the

^{١٦٧} أَيُّهَا امْرَأَةُ سَأَلْتُ زَوْجَهَا طَلَاقًا فِي غَيْرِ مَا بَأْسٍ فَحَرَامٌ عَلَيْهَا رَائِحَةُ الْجَنَّةِ

Jordan River. This is the area in which Allah's punishment descended on the nation of Lūt Alayhisalām. ¹⁶⁸

Allāh Ta'ālā says in the Qurān referring to those dwellings destroyed by Him:

“Say, “Go about the earth, and see what was the fate of those who belied (the messengers)”

(Qurān 6:11) ¹⁶⁹

In the above quoted verse, Allāh Ta'ālā advises mankind to roam the earth and contemplate over the destruction of past nations. There was a time when powerful and wealthy

¹⁶⁸ Ma'ariful Quran, Vol. 3, page 648: Maktaba-e-Darul-'Uloom

¹⁶⁹ فلو قلنا: إن المراد من هذا كله تذكير الناس بمصارع الظالمين والطغاة، وإنحاء الله للمؤمنين؛ فحينئذ يوجه سؤال ويطرح: هل لنا حينئذ أن نزور مصارع القوم الظالمين بقصد الاعتبار والاتعاظ؟ يعني: إذا علمنا مثلاً أن قوماً ما أهلكهم الله، فهل لنا أن نزورهم؟ ومن ثم تأتي مسألة زيارة الأهرامات وغيرها من آثار أهل الظلم والكفر والفراغة، هل تُشرع الزيارة للاتعاظ والاعتبار أم أنها من أصلها لا معنى لها؟ القائل بالجواز يستدل ويبني قوله على أمور، منها: قوله تعالى: {قُلْ سِيرُوا فِي الْأَرْضِ فَانظُرُوا كَيْفَ كَانَ عَاقِبَةُ الَّذِينَ مِنْ قَبْلُ} [الروم: ٤٢] ، وكما قال سبحانه: {قَالِيَوْمَ تُنْجِيكَ يَبْدِيكَ لَيْتُكَ لِمَنْ خَلَقَ آيَةٌ} [يونس: ٩٢] ، {وَلَقَدْ تَرَكْنَاهَا آيَةً} [القمر: ١٥] إلى غير ذلك من الآيات التي فيها الأمر بالسير في الأرض للاعتبار والادكار.

ولقائل آخر أن يمنع مستدلاً بحديث النبي صلى الله عليه وسلم الذي قال فيه لأصحابه لما مر بديار ثمود: (لا تدخلوا على هؤلاء المعذنين إلا أن تكونوا بأكين، فإن لم تكونوا بأكين فلا تدخلوا عليهم أن يصيبكم مثل ما أصابهم) ، فهذا الحديث يمنع من الدخول عليهم بقصد النظر، إنما فقط يجوز الدخول عليهم مع الحالة المصاحبة لك من الخوف والبكاء أو التباكى، وللاعتاظ والاعتبار، فيقال: إن الأصل هو المنع، إلا إذا كنت بأكياً كما أشار إليه حديث رسول الله صلوات الله وسلامه عليه.

فهذا وجه آخر أيضاً وهو قوي، والمسألة لا تخلو من الأخذ والرد، لكن الذي يذهب فقط للإعجاب بحضارة الكفار الفراعنة، ثم يرجع معجباً بهم، ومتغنياً بترائهم، فهذا يُخشى عليه أن يلحقه -والعياذ بالله- شعبة من النفاق، أو شعبة من محبة الكفر والكافرين، والله سبحانه وتعالى أعلم

tribes were walking haughtily and boastfully on this very surface. Despite enjoying the favors of Allāh, they denied His Majesty and persisted in His disobedience. When they did not desist from their wrong, Allāh Ta'alā released upon them His chastisement by obliterating their very existence.

However, there are certain narrations in Hadīth that indicate towards the impermissibility of travelling to such places. In the ninth year after the migration to Medīnah, Nabī Sallallāhu Alaihi Wa Sallam along with his companions underwent a journey to Tabūk. On the way, they passed by the houses of Thamūd, a nation destroyed by Allāh Ta'alā. The companions started to extract water from the wells of Thamūd and kneaded their bread with the water. Furthermore they filled their utensils with it. When Nabī Sallallāhu Alaihi Wa Sallam came to know, he ordered them to spill the water and feed the kneaded bread to the camels. (Musnad Ahmed, Hadīth No. 5984: Muassissah Ar-Risālah)

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In another narration Nabī Sallallāhu Alaihi Wa Sallam stated:

١٧٠ - حَدَّثَنَا عَبْدُ الصَّمَدِ، حَدَّثَنَا صَخْرُ بْنُ جُوَيْرِيَّةَ، عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ قَالَ: نَزَلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِالثَّالِثِ غَامِ تَبُوكَ نَزَلَ بِهِمُ الْحِجْرُ عِنْدَ بُيُوتِ ثَمُودَ، فَاسْتَسْقَى النَّاسُ مِنَ الْآبَارِ الَّتِي كَانَ يَشْرَبُ مِنْهَا ثَمُودُ، فَعَجَنُوا مِنْهَا، وَنَضَبُوا الْقُدُورَ بِاللَّحْمِ فَأَمَرَهُمْ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَهْرَاقُوا الْقُدُورَ، وَعَلَفُوا الْعَجِينَ الْإِبِلَ، ثُمَّ ارْتَحَلَ بِهِمْ حَتَّى نَزَلَ بِهِمْ عَلَى الْبَيْرِ الَّتِي كَانَتْ تَشْرَبُ مِنْهَا [ص: ١٩٢] الثَّقَافَةُ، وَبَهَاهُمْ أَنْ يَدْخُلُوا عَلَى الْقَوْمِ الَّذِينَ عَذَّبُوا قَالَ: «إِنِّي أَخْشَى أَنْ يُصِيبَكُمْ مِثْلُ مَا أَصَابَهُمْ، فَلَا تَدْخُلُوا عَلَيْهِمْ» (مسند احمد، رقم الحديث ٥٩٨٤: مؤسسة الرسالة)

“Do not enter into the area of destruction unless you enter weeping. If you do not enter while crying, do not enter lest you may be afflicted as they were afflicted.”

(*Sahih Al-Bukhārī, Hadīth No. 44: Dār Tanq An-Najāh*) ¹⁷¹

Hence, in view of the above quotations, the Ulemā (scholars) have permitted going to such places to take heed and advice. The heart must be filled with fear and awe. However, it is not permissible to visit these areas for entertainment and amusement. ^{172 173 174} Unfortunately, today the Dead Sea has become a great tourist attraction where immodesty and sin is the order of the day, making it

^{١٧١} حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَبْدِ اللَّهِ، قَالَ: حَدَّثَنِي مَالِكٌ، عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا: أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لَا تَدْخُلُوا عَلَى هَؤُلَاءِ الْمُعَذِّبِينَ إِلَّا أَنْ تَكُونُوا بَاكِينَ، فَإِنْ لَمْ تَكُونُوا بَاكِينَ فَلَا تَدْخُلُوا عَلَيْهِمْ، لَا يُصَيِّبُكُمْ مَا أَصَابَهُمْ» (صحيح البخاري، رقم الحديث ٤٣٣: دار طوق النجاة)

^{١٧٢} (إِلَّا أَنْ تَكُونُوا بَاكِينَ) فَأَبَاحَ الدُّخُولَ فِيهِ عَلَى وَجْهِ الْبُكَاءِ وَالِاغْتِيَابِ (عمدة القاري، ج ٤، ص ١٩٠: دار إحياء التراث العربي – بيروت)

^{١٧٣} قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: (لَا تَدْخُلُوا عَلَيْهِمْ؛ لَا يَصِيْبُكُمْ مَا أَصَابَهُمْ) أَي: إِذَا دَخَلْتُمْ فَادْخُلُوا وَأَنْتُمْ تَعْرِفُونَ نِعْمَةَ اللَّهِ عَلَيْكُمْ، وَتَخَافُونَ مِنْ بَطْشِ اللَّهِ سَبْحَانَهُ، وَإِذَا لَمْ يَكُنْ هَذَا حَالَكُمْ فَلَا تَدْخُلُوا حَتَّى لَا يَصِيْبَكُمْ مِثْلُ مَا أَصَابَ هَؤُلَاءِ. (شرح رياض الصالحين للشيخ الطيب أحمد حطية، باب البكاء والخوف عند المرور بقبور الظالمين: دروس صوتية قام بتفريغها موقع الشبكة الإسلامية) (سلسلة التفسير لمصطفى العدوي، ج ٤٣، ص ٤: دروس صوتية قام بتفريغها موقع الشبكة الإسلامية)

^{١٧٤} هَذَا مَعْنَى الْحَدِيثِ وَلَيْسَ الْمُرَادُ أَنْ يَصِيْبَكُمْ الْعَذَابُ وَالزَّجْرُ الْحَسِّي فَقَدْ يَرَادُ بِهِ الْعَذَابُ وَالزَّجْرُ الْمَعْنَوِي وَهُوَ أَنْ يَقْسُو قَلْبَ الْإِنْسَانِ فَيَكْذِبَ بِالْخَبَرِ وَيَتَوَلَّى عَنِ الْأَمْرِ (شرح حديث جابر بن عبد الله رضي الله عنهما في صفة حجة النبي صلى الله عليه وسلم، ج ١، ص ٧٣: دار المحدث للنشر والتوزيع، الرياض)

difficult to maintain a good intention.¹⁷⁵ Therefore it is not advisable to visit the Dead Sea.

Also, it is disliked to utilize the products manufactured from the Dead Sea's water or sand. ^{176 177}

Your holidays? Where?

Allah Ta'ala has blessed us with many bounties and blessings. Allah says,

وَأَنْ تَعْدُوا نِعْمَةَ اللَّهِ لَا تُحْصَوْهَا

*And if you (try to) count the blessings of Allah,
You shall never be able to do so...*

(Qur'an 16:18)

¹⁷⁵ http://www.yourway.co.il/israel_attractions.html

¹⁷⁶ يَنْبَغِي أَنْ يُزَادَ فِي الْمُنْدُوبَاتِ أَنْ لَا يَتَطَهَّرَ مِنْ مَاءٍ أَوْ تُرَابٍ مِنْ أَرْضٍ مَغْضُوبٍ عَلَيْهَا كَأَبَارِ ثَمُودَ، فَقَدْ نَصَّ الشَّافِعِيُّ عَلَى كِرَاهَةِ التَّطَهُّرِ مِنْهَا، بَلْ نَصَّ الْحَنَابِلَةُ عَلَى الْمُنْعِ مِنْهُ، وَظَاهَرُ أَنَّهُ لَا يَصِحُّ عَنْدهُمْ، وَمُرَاعَاةُ الْخِلَافِ عِنْدَنَا مَطْلُوبَةٌ، وَكَذَا يُقَالُ فِي التَّطَهُّرِ بِفَضْلِ مَاءِ الْمَرَاةِ كَمَا بَأْنِي قَرِيْبًا فِي الْمَنْبِيَّاتِ، وَاللَّهُ أَعْلَمُ. (رد المحتار، ج ١، ص ١٣١: سعيد)

¹⁷⁷ يَنْبَغِي كِرَاهَةُ التَّطَهُّرِ أَيْضًا أَخَذًا وَمِمَّا ذَكَرْنَا وَإِنْ لَمْ أَرَهُ لِأَحَدٍ مِنْ أَئِمَّتِنَا بِمَاءٍ أَوْ تُرَابٍ مِنْ كُلِّ أَرْضٍ غَضِبَ عَلَيْهَا إِلَّا بِئَرٍ ثَائِقَةٍ بِأَرْضِ ثَمُودَ، فَقَدْ صَرَّحَ الشَّافِعِيُّ بِكَرَاهِيَتِهِ وَلَا يُبَاحُ عِنْدَ أَمَدٍ. قَالَ فِي شَرْحِ الْمُتَمَتَّى الْحَنْبَلِيِّ: لِخَدِيثِ ابْنِ عُمَرَ «إِنَّ النَّاسَ تَرَلُّوْا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى الْحِجْرِ أَرْضِ ثَمُودَ فَاسْتَقَوْا مِنْ آبَارِهَا وَتَجَنَّبُوا بِهَ الْعَجِينَ، فَأَمَرَهُمُ الرَّسُولُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنْ يَهْرِيقُوا مَا اسْتَقَوْا مِنْ آبَارِهَا وَيَعْلِفُوا الْإِبِلَ الْعَجِينَ، وَأَمَرَهُمْ أَنْ يَسْتَقُوا مِنَ الْبَيْرِ الَّتِي كَانَتْ تَرُدُّهَا الثَّاقَةُ» حَدِيثٌ مُتَّفَقٌ عَلَيْهِ. قَالَ: وَظَاهَرُهُ مَنَعُ الثَّاقَةِ بِهَ وَبِئَرِ الثَّاقَةِ هِيَ الْبَيْرُ الْكَبِيرَةُ الَّتِي يَرُدُّهَا الْحُجَّاجُ فِي هَذِهِ الْأَزْمَةِ اهـ (قَوْلُهُ: وَالْإِمْتِحَاطُ) مَغْطُوفٌ عَلَى الْإِقَاءِ، وَقَوْلُهُ: فِي الْمَاءِ مُتَعَلِّقٌ بِأَحَدِهِمَا عَلَى التَّنَازُعِ (رد المحتار، ج ١، ص ١٣٣: سعيد)

The different blessings of Allah which have been given to us through the sheer mercy of Allah also make us accountable for how we use these blessings.

One of the blessings of Allah is wealth and money. Just as we will be responsible for using our eyes, ears, mouth, hands and every other blessing of Allah in the right avenue, so too are we responsible for using our wealth in the right avenue. Rasulullah salallāhu ‘alayhi wasallam mentioned that when one will stand before Allah Ta’ala on the day of judgement, one will be asked,

وَفِيمَ أَتَقَعُ

Where did you spend your wealth?

(Sunan Tirmidhi #2416)

It is important for us as muslims to consider how and where we spend our money. If a parent comes to know that the child has misused his pocket money in going to a harām place, for example a casino where he is at risk of a host of evils, when his father learns about that, he surely will get angry. He will never give his child pocket money in future as he knows the dangers of doing so. If the child convinces the father that there is halāl food in the casino, the father is not stupid to accept that justification of the child. Halāl food in a casino does not make all other harām activities halāl. The father will make sure that the child does not make such a mistake again.

Similarly if we will misuse a bounty in avenues which are

detrimental to us then how can we expect Allah Ta'āla to bless us barakah in our wealth, our lives and our families.

In recent times it is becoming more and more common to seek out halāl alternatives for family outings and vacations. While the motive is noble and effort is genuine, it is important not to compromise our wholesome Islamic values in doing so. Islam does not prohibit us from taking some time out with our families for vacation, but we need to make sure that these vacations are void of all such evils that could jeopardize one's spirituality. We know beyond doubt that our families will absorb the ill-effects of the environment that will be detrimental to ones Imān and have a long lasting devastating effect. If we will take our family to a casino, pub, nightclub etc. then how can we expect any sense of Imān to flourish in us?

In this trend of seeking halāl resorts and vacations, some muslims have also taken up cruise specials voyaging the seas in cruise liners. Such cruises present many challenges to one's Imān. It is almost impossible to remain unaffected by the barrage of evils and immoralities in such cruises, from casinos to nudity; intermingling to dancing; alcohol to music, the evils beyond that are too many. This is tantamount to putting butter into a hot pan and expecting it not to melt. Arrangements for halāl food in places of harām does not justify harām. No proper mu'min can remain in such an environment and not have his imān jolt him to separate oneself and one's family from such cruises. This is also according to people who already experienced such cruises and made tawba.

As an alternative, consider visiting the glorious sites of Islam. Make a voyage to Harāmayn Sharīfayn and reap the rewards of Umrah as well as visiting the blessed and spiritually uplifting sight of Ka'ba. Give salutations to Nabī salallahu 'alayhi wasallam in person at his Rawdha. Walk the roads and allies traversed by our Nabī salallahu 'alayhi wasallam himself. See the mount of Uhud, the land of Badr and the cave of Hira. Roam the valley of Tā'if where our beloved salallāhu 'alayhi wasallam shed his blood for us. One can go further beyond to seek Al Aqsa and the dome of the rock and boost one's Imān.

There are many other venues to be explored which can be a holiday with one's family as well as educational and motivational to one's spirituality. Let us not put ourselves in a position where we have to answer for the misuse of blessings of Allah in avenues which are harmful to our lives in this world as well as hereafter. While doing so let us also keep the wellbeing of our dear families in sight and save them from any environment which may harm them. Allah has ordained this upon every guardian of the family:

يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ عَلَيْهَا مَلَائِكَةٌ غِلَاظٌ شِدَادٌ لَا يَعْصُونَ اللَّهَ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ

O you who believe! Save yourselves and your families from fire where the fuel shall be people and stones, over which strong and severe angels are set guard, who do not disobey Allah in His commandments, rather do as they are commanded.

(Qur'an 66:6)

Shari'ah compliant lease agreement

Q: I request Mufti Saheb if possible to send a Shari'a compliant lease agreement and an Islamic Employment contract to me. If this is not possible could Mufti Saheb give me some guidelines regarding drawing up these two contracts?

A: *Al-Ijarah* (hiring) contract has a number of terms and conditions in addition to the common terms and conditions that apply to other contracts. Hereunder are the basic terms and condition of *Ijarah*:

1. Leasing is a contract whereby the owner of an item transfers its usufruct to another person for an agreed period of time, at an agreed amount.¹⁷⁸
2. A very important point is that everything must be specified and clear. There must be no ambiguity in the contract which may lead to a misunderstanding in future.
3. The leased item must have a valuable use. Therefore, things having no usufruct at all cannot be leased.¹⁷⁹
4. It is necessary for a valid contract of lease that **leased property remains in the ownership of the lessor**, and only its usufruct is transferred to the lessee. Thus, anything which cannot be used without consuming cannot be leased out. Therefore, the lease cannot be

¹⁷⁸ ومنها أن يكون المعقود عليه وهو المنفعة معلوما علما يمنع المنازعة فإن كان مجهولا جهالة مفضية إلى المنازعة يمنع صحة العقد وإلا فلا. (الفتاوى الهندية - ج ٤ - ص ٤١١ - مكتبه رشيدية)

¹⁷⁹ ومنها أن تكون المنفعة مقصودة معتادا استيفاؤها بعقد الإجارة ولا يجري بها التعامل بين الناس فلا يجوز استئجار الأشجار لتجفيف الثياب عليها (الفتاوى الهندية - ج ٤ - ص ٤١١ - مكتبه رشيدية)

effected in respect of money, eatables, fuel and ammunition etc. because their use is not possible unless they are consumed. If anything of this nature is leased out, it will be deemed to be a loan and the rules concerning the transaction of loan shall accordingly apply. Any rent charged on this invalid lease shall be an interest charged on loan¹⁸⁰.

5. Generally, in Fiqh the Fuqahaa discuss the *Abliyyah* (qualification) to carry out any particular act and generally , there are four qualifications: a) Muslim, b) Free, c) Sane, d) Adult

In *Ijarah*, the only condition of qualification is to be sane. That means an insane person cannot be an employer or a employee/worker. Being a Muslim is not necessary. The employer or the employee/worker or one of the two may be a non-Muslim. To be a free person is also not necessary. A slave who is granted permission from his master may be a employer or employee/worker. To be an adult is also not necessary. A minor who has reached an understandable age may be an employer or employee/worker on a issue that is of benefit to him/her, if there is a possibility of a loss, for example, in buying, selling, hiring, etc. then the minor requires the consent of his/her guardian to affect such a deal.¹⁸¹

¹⁸⁰ ولا تجوز إجارة الدراهم والدنانير ولا تبرهما وكذا تبر النحاس والرصاص ولا استئجار المكيلات والموزونات لأنه لا يمكن الانتفاع بالعين إلا بعد استهلاك أعيانها (الفتاوى الهندية - ج ٤ - ص ٤٥٣ - مكتبه رشيدية)

¹⁸¹ أما شرائط الاعتقاد فمنها العقل حتى لا تنعقد الإجارة من المجنون والصبي الذي لا يعقل ، وأما البلوغ فليس من شرائط الاعتقاد ولا من شرائط النفاذ عندنا حتى إن الصبي العاقل لو آجر ماله أو نفسه فإن

Lease agreement

1. The hired property must be in a useable condition (*i.e.*, the lessee should be able to use the property for its intended purpose).¹⁸²
2. The duration of the hiring should be mentioned clearly at the time of the contract.¹⁸³
3. The rental amount should be mentioned in the contract.¹⁸⁴
4. Rental can be fixed at different amounts for different phases during the lease period.

EXAMPLE 1:

A leases his house to B for a total period of 5 years. The rent of the first year is fixed R2000 per month, and the

كان مأذونا تنفذ ، وإن كان محجورا تقف على إجازة الولي عندنا ، وكذا لو أجر الصبي المحجور نفسه وسلم وعمل وسلم من العمل يستحق الأجر فيكون الأجر له ، وكذا حرية العاقد ليست بشروط لانقضاء الإجازة ولا لنفاذها عندنا فينفذ عقد المملوك إن كان مأذونا ويقف على إجازة المولى إن كان محجورا ، وإسلامه ليس بشروط أصلا فتجوز الإجازة والاستئجار من المسلم والذي والحري والمستأمن ، وأما خلو العاقد عن الردة إذا كان ذكرا فشرط في قول أبي حنيفة ، وعندهما ليس بشرط . (الفتاوى الهندية - ج ٤ - ص ٤١٠ - مكتبه رشيديه)

^{١٨٢} ومنها أن لا يكون بالمستأجر عيب في وقت العقد ووقت القبض يخل بالانتفاع به فإن كان لم يلزم العقد ومنها سلامة المستأجر عن حدوث عيب به يخل بالانتفاع فإن حدث به عيب يخل بالانتفاع به لم يبق العقد لازما (الفتاوى الهندية - ج ٤ - ص ٤١١ - مكتبه رشيديه)

^{١٨٣} صح العقد على مدة معلومة أي مدة كانت قصرت المدة كالיום ونحوه أو طال كالسنين ، كذا في

المضمرات (الفتاوى الهندية - ج ٤ - ص ٤١٥ - مكتبه رشيديه)

^{١٨٤} ومنها أن تكون الأجرة معلومة (الفتاوى الهندية - ج ٤ - ص ٤١١ - مكتبه رشيديه)

rent of every subsequent year shall be 10% more than the previous one. This lease is VALID.

EXAMPLE 2:

A now puts a condition in the agreement that the rent of R2000 per month is fixed for the first year only. The rent for the subsequent years shall be fixed each year at the opinion of the lessor. This lease is VOID, because it is uncertain¹⁸⁵.

5. Lease of a jointly owned property is permitted and rentals shall be distributed between all the joint owners according to the proportion of their respective shares in the property.¹⁸⁶
6. The lessee is not permitted to use the subject (property, items, etc) in a manner contrary to what is permitted by the contract. Specifically, the lessee is not allowed to inflict any harm on the subject (property, items, etc) of the contract.¹⁸⁷

¹⁸⁵ لا بأس باستئجار الأرض إلى طويل المدة وقصيرها بعد أن تكون معلومة كما إذا استأجرها عشر سنين أو أكثر هذا إذا كانت مملوكة (الفتاوى الهندية - ج ٤ - ص ٤٣٩ - مكتبه رشيدية)

¹⁸⁶ ولو آجره من رجلين يجوز وكل واحد من المستأجرين يملك منفعة النصف شائعاً (الفتاوى الهندية - ج ٤ - ص ٤٤٨ - مكتبه رشيدية)

¹⁸⁷ وَيُجْزَى اسْتِئْجَارُ الدَّوَابِّ لِلرُّكُوبِ ، وَالْحَمَلِ فَإِنْ أَطْلَقَ الرُّكُوبَ جَارَ لَهُ أَنْ يَرْكَبَهَا مِنْ شَاءَ وَكَذَا إِذَا اسْتَأْجَرَ ثَوْبًا لِلْبُئْسِ وَأَطْلَقَ ، فَإِنْ قَالَ : عَلَى أَنْ يَرْكَبَهَا فَلَانَّ ، أَوْ يَلْبَسَ الثَّوْبَ فَلَانَّ فَأَرْكَبَهَا غَيْرَهُ ، أَوْ أَلْبَسَ الثَّوْبَ غَيْرَهُ كَانَ ضَامِنًا إِنْ عَطِبَتْ الدَّابَّةُ ، أَوْ تَلَفَ الثَّوْبُ ، وَكَذَلِكَ كُلُّ مَا يَخْتَلِفُ بِاخْتِلَافِ الْمُسْتَعْمِلِ فَأَمَّا الْعَقَارُ وَمَا لَا يَخْتَلِفُ بِاخْتِلَافِ الْمُسْتَعْمِلِ فَإِذَا شَرَطَ فِيهِ سَاكِنًا فَلَهُ أَنْ يُسَكِّنَ غَيْرَهُ ، فَإِنْ سَمَّى قَدْرًا ، أَوْ تَوَعَّا يَجْعَلُهُ عَلَى الدَّابَّةِ وَمِثْلُ أَنْ يَقُولَ حَمْسَةُ أَفْفَاقٍ حِنْطَةً فَلَهُ أَنْ يَجْعَلَ مَا هُوَ وَمِثْلُ الْحِنْطَةِ فِي الضَّرَرِّ أَوْ أَقَلِّ كَالشَّعِيرِ وَالسِّمْسِمِ

7. The lessee is liable to compensate the lessor for every harm to the leased asset caused by any misuse or negligence on the part of the lessee.¹⁸⁸
8. The leased asset shall remain in the risk of the lessor throughout the lease period in the sense that any harm or loss caused by the factors beyond the control of the lessee shall be borne by the lessor.¹⁸⁹
9. The lessor cannot charge an additional amount in case the lessee delays payment of the rent.¹⁹⁰
10. The lease period shall commence from the date on which the leased asset has been delivered to the lessee, no matter whether the lessee has started using it or not.¹⁹¹

^{١٨٨} (و لا يضمن ما هلك في يده او بعمله) كتخريق الثوب من دقه الا اذا تعمد الفساد فيضمن كالمودع (فتاوى الشامى - ج ٦ - ص ٧٠ - ٧١ - ايج ايم سعيد)

^{١٨٩} (و لا يضمن ما هلك في يده او بعمله) كتخريق الثوب من دقه الا اذا تعمد الفساد فيضمن كالمودع (فتاوى الشامى - ج ٦ - ص ٧٠ - ٧١ - ايج ايم سعيد)

(قَوْلُهُ وَلَا يَضْمَنُ الْخَج) اَعْلَمُ أَنَّ الْهَلَكَ اِمَّا يَفْعَلُ الْاَجِيرُ اَوْ لَا ، وَالْأَوَّلُ اِمَّا بِالتَّعَدِّي اَوْ لَا . وَالثَّانِي اِمَّا أَنْ يُمَكِّنَ الْاِحْتِرَازَ عَنْهُ اَوْ لَا ، فَفِي الْأَوَّلِ بِقِسْمِيهِ يَضْمَنُ اِتِّفَاقًا . وَفِي ثَانِي الثَّانِي لَا يَضْمَنُ اِتِّفَاقًا وَفِي أَوَّلِهِ لَا يَضْمَنُ عِنْدَ الْإِمَامِ مُطْلَقًا وَيَضْمَنُ عِنْدَهُمَا مُطْلَقًا . وَأَقْبَى الْمُتَأَخِّرُونَ بِالْصَّلَحِ عَلَى نِصْفِ الْقِيَمَةِ مُطْلَقًا ، وَقِيلَ إِنْ مُصْلِحًا لَا يَضْمَنُ وَإِنْ غَيْرُ مُصْلِحٍ ضَمِنَ ، وَإِنْ مَسْتَوْراً قَالَ الصُّلَحُ أَحَدُ ح وَالْمُرَادُ بِالْإِطْلَاقِ فِي الْمَوْضِعَيْنِ الْمُصْلِحُ وَغَيْرُهُ . (فتاوى الشامى - ج ٦ - ص ٦٤ - ٦٥ - ايج ايم سعيد)

^{١٩٠} كل قرض جر نفعاً حرام (فتاوى الشامى - ج ٥ - ص ١٦٦ - ايج ايم سعيد)

احسن الفتاوى - ج ٧ - ص ٣١٨ - ايج ايم سعيد

^{١٩١} وكما يجب الأجر باستيفاء المنافع يجب بالتمكن من استيفاء المنافع إذا كانت الإجارة صحيحة حتى إن المستأجر داراً أو حانوتاً مدة معلومة ولم يسكن فيها في تلك المدة مع تمكنه من ذلك تجب الأجرة ، كذا في المحيط (الفتاوى الهندية - ج ٤ - ص ٤١٣ - مكتبه رشيدية)

11. The *Ijarah* contract can be terminated by mutual consent of the two parties.
12. The *Ijarah* contract will be cancelled by any valid excuse such as the tenant becomes insolvent and he can't pay the rent, so the contract of lease will be terminated.
13. The *Ijarah* contract will be cancelled by any valid excuse such as the tenant becomes insolvent and he can't pay the rent, so the contract of lease will be terminated.¹⁹²
14. If the lessee contravenes any term of the agreement, the lessor has the right to terminate the lease contract.¹⁹³
15. The *Ijarah* contract will end by the death of one of the two parties.¹⁹⁴

Employment contract

1. The employee must be able to perform the job required of him or her.¹⁹⁵

^{١٩٢} وَتَنْفِيخُ الْإِجَارَةِ بِالْأَعْدَارِ كَمَنْ اسْتَأْجَرَ دَكَّانًا فِي السُّوقِ لِيَتَجَرَ فِيهِ فَذَهَبَ مَالُهُ وَكُنْ أَجْرٌ ذَارًا ، أَوْ دَكَّانًا فَأَقْلَسَ وَلَرِمَتْهُ دُبُونٌ لَا يَقْدِرُ عَلَى قَضَائِهَا إِلَّا مِنْ ثَمَنِ مَا أَجَرَهُ فَسَخَّ الْقَاضِي الْعَقْدَ وَبَاعَهَا فِي الدَّيْنِ (مختصر القدوري - ص ٣٨٩ - إدارة القرآن و العلوم الاسلامية)

^{١٩٣} وَحُكْمُ أَجِيرِ الْوَحْدِ أَنَّهُ أَمِينٌ فِي قَوْلِهِمْ جَمِيعًا حَتَّى أَنْ مَا هَلَكَ مِنْ عَمَلِهِ لَا ضَمَانَ عَلَيْهِ فِيهِ إِلَّا إِذَا خَالَفَ فِيهِ وَالْخِلَافُ أَنْ يَأْمُرَهُ بِعَمَلٍ فَيَعْمَلُ غَيْرَهُ فَيُضْمَنُ مَا تَوَلَّدَ مِنْهُ حِينَئِذٍ هَكَذَا فِي شَرْحِ الطَّحَاوِيِّ (الفتاوى الهندية - ج ٤ - ص ٥٠٠ - مكتبه رشيدية)

فَأَمَّا إِذَا أَفْسَدَ بَأْنِ خَالَفَ فِي صِفَةٍ مَا أَمَرَ بِهِ ذَكَرَ أَنَّ صَاحِبَ الْجَلَدِ بِالْخِيَارِ إِنْ شَاءَ تَرَكَ الْخُفَّ عَلَيْهِ وَضَمَنَهُ قِيَمَةَ جَلَدِهِ ، وَإِنْ شَاءَ أَخَذَ الْخُفَّ وَأَعْطَاهُ الْأَجْرَ فَإِنْ تَرَكَ الْخُفَّ عَلَيْهِ وَضَمَنَهُ فَلَا أَجْرَ عَلَيْهِ ، وَإِنْ أَخَذَ الْخُفَّ فَإِنَّهُ يَعْطِيهِ أَجْرَ مِثْلِ عَمَلِهِ فِي خِرَزِ الْخُفِّ غَيْرَ مُنْعَلٍ (الفتاوى الهندية - ج ٤ - ص ٥١٩ - مكتبه رشيدية)

^{١٩٤} وَإِذَا مَاتَ أَحَدُ الْمُتَعَاقِدَيْنِ وَقَدْ عَقِدَ الْإِجَارَةَ لِنَفْسِهِ انْقَضَى الْعَقْدُ (مختصر القدوري - ص ٣٨٨ - إدارة القرآن و العلوم الاسلامية)

2. The duration of the employment should be mentioned clearly at the time of the contract.¹⁹⁶
3. The wage must be fixed and specified, that is to say, so much per day or so much per month. It is not valid to say that a suitable wage will be paid. If someone is employed without fixing his salary or wage, then the agreement is invalid, and he will have to be paid *UjratMithli* (a fair wage which generally s determined by an impartial third party, government). However if the rate of some work is fixed, then agreement can be made without specifying the wage. And in the event of cancellation of the agreement, the worker will have to be paid for as many days as he has worked.
However, difference of place will be taken into account. The same rate will not be paid in a small town as in a big city, nor will the same amount be paid in a big city as in a small town.¹⁹⁷
4. The nature, place and times of work must be specified. The person being employed must be told the kind of work he will be required to do, where he will work and the time he will have to work, or the amount of work he will have to do and then his wages should be agreed, therefore, if the employee is to be asked to carry any

¹⁹⁶ ومنها أن لا يكون بالمستأجر عيب في وقت العقد ووقت القبض يخل بالانتفاع به فإن كان لم يلزم العقد ومنها سلامة المستأجر عن حدوث عيب به يخل بالانتفاع فإن حدث به عيب يخل بالانتفاع به لم يبق العقد لازماً (الفتاوى الهندية - ج ٤ - ص ٤١١ - مكتبه رشيديه)

¹⁹⁷ صح العقد على مدة معلومة أي مدة كانت قصرت المدة كالأيوم ونحوه أو طال كالسنين ، كذا في المضمرات (الفتاوى الهندية - ج ٤ - ص ٤١٥ - مكتبه رشيديه)

¹⁹⁷ ومنها أن تكون الأجرة معلومة (الفتاوى الهندية - ج ٤ - ص ٤١١ - مكتبه رشيديه)

task which was not mentioned at the time of employment, he may refuse to do so. For example, if you employ a worker you have to tell him that you will be paid so much. Each day you will have to do so much work, and you will be working in this factory or in this place, and it will be in a cloth mill or a shoe factory, because the place and type of work makes a difference to the wages.¹⁹⁸

5. The employee is not permitted to use the subject in a manner contrary to what is permitted by the contract. Specifically, the employee is not allowed to inflict any harm on the subject of the contract.¹⁹⁹

^{١٩٨} والأجير الخاص من يتقبل العمل من واحد ، وإنما يعرف استحقاق الأجر بالعمل على العبارة الأولى بإيقاع العقد على العمل كما لو استأجر خياطاً ليخيط له هذا الثوب بدرهم أو استأجر قصاراً ليقصر له هذا الثوب بدرهم ، وإنما يعرف استحقاق الأجر بتسليم النفس وبمضي المدة بإيقاع العقد على المدة كما لو استأجر إنساناً شهراً ليعلمه والإجارة على العمل إذا كان معلوماً صحيحة بدون بيان المدة والإجارة على المدة لا تصح إلا ببيان نوع العمل وإذا جمع بين العمل وبين المدة وذكر العمل أولاً نحو أن يستأجر راعياً مثلاً ليرعى له غنماً مساةً بدرهم شهراً يعتبر هو أجيراً مشتركاً إلا إذا صرح في آخر كلامه بما هو حكم أجير الواحد بأن قال على أن لا ترعى غنم غيري مع غنمي وإذا ذكر المدة أولاً نحو أن يستأجر راعياً شهراً ليرعى له غنماً مساةً بدرهم يعتبر هو أجير وحده بأول الكلام إلا إذا نص في آخر كلامه بما هو حكم الأجير المشترك فيقول وترعى غنم غيري مع غنمي . كذا في الذخيرة . والأوجه أن يقال الأجير المشترك من يكون عقده وارداً على عمل معلوم ببيان عمله والأجير الخاص من يكون العقد وارداً على منفعه ولا تصير منفعه معلومة إلا بذكر المدة أو بذكر المسافة . كذا في التبيين . (الفتاوى الهندية - ج ٤ - ص ٥٠٠ - مكنبه رشديه)

^{١٩٩} وَيَجُوزُ اسْتِئْجَارُ الدَّوَابِّ لِلرُّكُوبِ ، وَالْحَمَلَيْنِ أَطْلُقَ الرُّكُوبَ جَازَ لَهُ أَنْ يَرْكَبَهَا مَنْ شَاءَ وَكَذَا إِذَا اسْتَأْجَرَ ثَوْبًا لِلْبَيْسِ وَأَطْلُقَ ، فَإِنْ قَالَ : عَلَى أَنْ يَرْكَبَهَا فُلَانٌ ، أَوْ يَلْبَسَ الثَّوْبَ فُلَانٌ فَارْكَبَهَا غَيْرُهُ ، أَوْ أَلْبَسَ الثَّوْبَ غَيْرُهُ كَانَ صَاحِبًا إِنْ عَطِيشَ الدَّابَّةَ ، أَوْ تَلَفَ الثَّوْبَ ، وَكَذَلِكَ كُلُّ مَا يَخْتَلِفُ بِاخْتِلَافِ الْمُسْتَعْمِلِ قَائِمًا الْقَعَارُ وَمَا لَا يَخْتَلِفُ بِاخْتِلَافِ الْمُسْتَعْمِلِ فَإِذَا شَرَطَ فِيهِ سَاكِنًا فَلَهُ أَنْ يَسْكُنَ غَيْرُهُ ، فَإِنْ سَمَّى قَدْرًا ، أَوْ نَوَعًا يَحْمِلُهُ عَلَى الدَّابَّةِ مِثْلُ أَنْ يَقُولَ خَمْسَةُ أَقْفَرَةٍ حِطَّةً فَلَهُ أَنْ يَحْمِلَ مَا هُوَ مِثْلُ

6. The position of a employee is an *Amin* (entrusted person) without *Zamaanat* i.e. trustee without liability. A trustee has to take full care of the item that he is entrusted with, but if by chance a item is lost or damaged, he will not be liable for compensation, but if he deliberately damages it, then he will be liable. In the same way, every worker and employee is a trustee of his employers' property, i.e. the things that he uses or is put in charge of, and of the work he has been given to do. So, if by chance or because of some difficulty he falls short in his work, or by chance the things that he is using or are in his charge break down, or get damaged, then he will not be held responsible.²⁰⁰
7. If on one day, the employer does not give his employee any work to do, then does he have to pay him for that? In this, there are two possibilities: one is that he is keeping him on the basis of a monthly or weekly wage, and the employee reported for work but was not given any work to do. In this case, he has to be paid for his time, as well as for his day off. But if is kept on a daily wage basis then he will have to be paid for the days on which he works, and not for the days on which he is not given work.²⁰¹

الْجُنْطَةُ فِي الصَّرَرِ أَوْ أَقْلُ كَالشَّعِيرِ وَالسِّمِّمِ (مختصر القدوري - ص ٣٧٥ - إدارة القرآن و العلوم الإسلامية)

^{٢٠٠} (و لا يضمن ما هلك في يده او بعمله) كتحريق الثوب من دقه الا اذا تعدد الفساد فيضمن
 كالمودع (فتاوى الشامى - ج ٦ - ص ٧٠ - ٧١ - ايج ايم سعيد)
^{٢٠١} والأجير الخاص من يتقبل العمل من واحد ، وإنما يعرف استحقاق الأجر بالعمل على العبارة الأولى
 بإيقاع العقد على العمل كما لو استأجر خياطاً ليخيط له هذا الثوب بدرهم أو استأجر قصاراً ليقصر له

8. The *Ijarah* contract can be terminated by mutual consent of the two parties.
9. Once an employer and employee have entered into a wage agreement, then neither party has the right to cancel it unless either party is confronted with some constraint or legitimate objection which excuses the employer from taking the work or the employee from doing the work.²⁰²
10. The *Ijarah* contract will end by the death of one of the two parties.²⁰³

NOTE; The lessor or the employer may put any other conditions at what has been mentioned above, but the conditions has to be such that they are not conflict with the integrals of a transaction, as such we would advise

هذا الثوب بدرهم ، وإنما يعرف استحقاق الأجر بتسليم النفس ومضي المدة بإيقاع العقد على المدة كما لو استأجر إنسانا شهرا لخدمته والإجارة على العمل إذا كان معلوما صحيحة بدون بيان المدة والإجارة على المدة لا تصح إلا ببيان نوع العمل وإذا جمع بين العمل وبين المدة وذكر العمل أولا نحو أن يستأجر راعيا مثلا ليرعى له غنما مساة بدرهم شهرا يعتبر هو أجيرا مشتركا إلا إذا صرح في آخر كلامه بما هو حكم أجبر الواحد بأن قال على أن لا ترعى غنم غيري مع غنمي وإذا ذكر المدة أولا نحو أن يستأجر راعيا شهرا ليرعى له غنما مساة بدرهم يعتبر هو أجبر وحده بأول الكلام إلا إذا نص في آخر كلامه بما هو حكم الأجير المشترك فيقول وترعى غنم غيري مع غنمي .كذا في الذخيرة .والأوجه أن يقال الأجير المشترك من يكون عقده واردا على عمل معلوم ببيان عمله والأجير الخاص من يكون العقد واردا على منافعه ولا تصير منافعه معلومة إلا بذكر المدة أو بذكر المسافة .كذا في التبيين .(الفتاوى الهندية - ج ٤ - ص ٥٠٠ - مكتبه رشيدية)

^{٢٠٢} لَوْ حَدَثَ غَدْرٌ مَالِغٌ لِإِجْرَاءٍ مُّوجِبِ الْعَقْدِ تَنْفُسُخُ الْإِجَارَةِ (درر الحکام فی شرح مجلة الأحكام - ج ٣ - ص ١٧ - موقع الإسلام)

^{٢٠٣} وَإِذَا مَاتَ أَحَدُ الْمُتَعَاذِينَ وَقَدْ عَقِدَ الْإِجَارَةُ لِنَفْسِهِ انْقَضَ الْعَقْدُ (مختصر القدوري - ص ٣٨٨ - إدارة القرآن و العلوم الاسلامية)

that one send to Mufti or a Alim the contract with all added conditions made by the lessor or the employer so that the contract may be verify if all condition is in conformity with the integrals of a transaction or not.

We advise one to write down the contract made between the two parties, as was the practice and teaching of our messenger Muhammad Sallallahu Alaihi Wasallam:

Hadhrat Abdul Majid Bin WahbRahimahullah narrates: Hadhrath Addaa Bin Khalid bin HauzhahRadhiyallahu Anhu told me, “Should I not recite to you the letter that the messenger Muhammad Sallallahu Alaihi Wasallam wrote to me?”Hadhrat Abdul Majid Bin Wahb Rahimahullah says: I replied, “Yes indeed.” Then Hadhrat Addaa Bin Khalid bin Hauzhah Radhiyallahu Anhu took out a written document for in which it was imprinted:

“This is what Addaa Bin Khalid bin Hauzhah purchased from Muhammad the Messenger of Allah Sallallahu Alaihi Wasallam. He purchased from him a male slave or a female slave that had no sickness, no deceit, and no defect. This is a transaction between a Muslim and another Muslim.”

(*Sunan At-Tirmidhi, vol 2, pg. 230. Saeed.*)²⁰⁴

²⁰⁴ حدثنا محمد بن بشار . حدثنا عباد بن ليث صاحبالكرائيسى . حدثنا عبد المجيد بن وهب قال : قال
لى العداء بن خالد بن هوذة : ألا أقرئك كتابا كتبه لى رسول الله صلى الله عليه وسلم ؟ قال قلت :
بلى . فأخرج لى كتابا (هذا ما اشتري العداء بن خالد بن هوذة من محمد رسول الله صلى الله عليه
وسلم . اشتري منه عبدا أو أمة . لا داء ولا غائلة ولا خبثة ، بيع المسلم المسلم) (سنن الترمذي ج ٢
- ص ٢٣٠ - إيج ايم سعيد)

We advise one to put a Mediation/ Arbitration clause such as:

Ay dispute arising from or in connection with this contract shall be finally resolved in accordance with the standard conditions of Mediation/Arbitration of the Darul IftaaMahmudiyyah Sherwood, Durban, by an arbitrator appointed by the Darul Iftaa or any other competent Darul Iftaa.

Remain confined to your area of expertise

Q: Is it permissible for the husband and wife to listen to these bayāns and gain benefit from it because it has developed the love and fear for Allah Subhānahu Wa Ta'āla in my heart and also helped to strengthen family relationships so I also want my family to listen and gain benefit from it. Please advise regarding this. Also I wanted to know whether the lady Farhat Hashmi who gives Islamic lectures on YouTube is reliable. Can we listen to those lectures? Is it permissible to watch and listen to these bayans?

A: It is permissible for women to benefit from a woman giving bayān and advises if:

1. She adheres to the beliefs and the aqā'id of the Ahl-e-Sunnāh Wal Jamā'h.
2. She acknowledges *taqleed* (the following of a Madhab)and also makes taqleed.
3. Her thinking and views must be in line with the views and the thinking of our *Akabreen* (pious predecessors).
4. She adheres to the Shari'āh.

5. She adheres to the Sunnāhs of Rasullullah Sallallahu Alahi Wa Sallam
6. She must be an *Alimāh* (Islamic scholar) and be a graduate of an institute that is recognized by our Ulamā.
7. She consults with the Ulama and the senior people on issues facing her.

If all the above mentioned conditions are met, it will be permissible for such a woman to teach and advise women on issues regarding Deen. If a woman lacks any of the above conditions, it will not be permissible for her to advise others. Those women who are not *Alimāh* (Islamic scholars) are not authorized in giving speeches and lectures.

If a person were to study all the books required to become a doctor without the help of a bona fide teacher, no one will consider such a person to be qualified as a doctor, regardless of how much knowledge that person possess in medicine as there is a strong possibility of making a mistake which could be fatal.

Shari'āh has emphasized the importance of acquiring knowledge of the Quran and the Hadith and other aspects of Deen. Studying the basic aspects of Deen is *Fard* (compulsory), as it has been mentioned in the Hadith.

“Acquiring knowledge is binding upon every Muslim.”

(*Sunan Ibn Majah* 1/81)²⁰⁵

²⁰⁵ طَلَبُ الْعِلْمِ فَرِيضَةٌ عَلَى كُلِّ مُسْلِمٍ (سنن ابن ماجه (١/ ٨١)

This obligation refers to both, males and females. However, one must be very cautious from whom he acquires his/her knowledge. It is mentioned in a Hadith:

“Verily knowledge is Deen. Be cautious regarding whom you acquire your knowledge from.”

*(Sahih Muslim 1/14)*²⁰⁶

A persons thinking and conduct is shaped according to his/her knowledge. A teacher has a great impact on his/her students. The students tend to imitate the lifestyle of their teachers.

There is a need for women to teach other women. In the time of Sahābah (Radiallahu Ta'alā Anhum), many people would seek knowledge from Aishā Radiallahu Ta'alā Anhā (the mother of all the believers) since she was the most knowledgeable woman from amongst them. This does not mean that any unqualified woman has the right to stand up and start preaching Deen. This may be detrimental for her Imān as well as for the Imān of others.

If a person is qualified in a particular field, the person should limit his/her focus to that field. This applies to men and women. If a person is a Hāfiz of the Quran, he cannot assume the position of being an Ālim by a virtue of the respect accorded to him as a Hafiz. Similarly, if a woman is teaching in a maktab for example, or is a wife of an Ālim or is a follower of a spiritual guide, that association is not

²⁰⁶ إِنْ هَذَا الْعِلْمُ دِينٌ، فَانْظُرُوا عَمَّنْ تَأْخُذُونَ دِينَكُمْ (صحيح مسلم (١٤/١))

enough for her to assume the position of a qualified Ālima or a Shaikh. It is an unfortunate reality that many such women do not maintain their limits and even assume the position of issuing Fatwās. Their respect lies in them being confined to their area of speciality and not to trespass that. In some instances, we observed that some women assume the role of a shaikh (spiritual guide) to people who view them with respect but their personal life is void of any Islamic value. That type of attitude questions the very Ikhlās (sincerity) and intention of such people. Is it loyalty and dedication to the cause of worshipping ones position? This is a critical question to determine Ikhlās. Only an act with Ikhlās and according to Shari'āh is accepted by Allah Subhānahu Wa Ta'alā.

The above are our general observations on the issue without reference to a specific person. We are unable to comment on Farhat Hashmi as we are based in South Africa and do not know much about her. Attached is a Fatwā from Darul-Ifta Jami'āh Banoria, Karachi regarding her.

S No: ===== 91

Fatwa No: ===== 3668

Date: ===== Saturday, August-21, 2004 11:19 PM

NAME :>> Syed Attique Shafaat

ADDRESS :>> Toronto

EMAIL :>>

SUBJECT :>> Dr. Farhat Hashmi

QUESTION :>> Assalam-o-Alykum,

I am resident of Toronto in Canada. These days, in Muslim Community here in Canada we have a controversial issue regarding Islamic Darse by Dr. Farhat Hashmi of AL-HUDA. I shall be very grateful to you if you can answer following concerns.

1. Can you please shed some light on her Darse.
2. Do you think is it okay to listen her cassettes?
3. Is it good to follow her preaching?
4. Send some information about her and her institution.

These issues are very important for us in Canada. Please reply in details so that I can forward your reply to Muslim Community.

Thanks:

ترجمہ: السلام علیکم

میری رہائش ٹورانٹو کنیڈا میں ہے آج کل یہاں کے مسلمان کمیٹی میں اختلاف ہے جو فرحت ہاشمی کے درس کے متعلق ہے میں آپ کا شکریہ گزار رہوں گا کہ آپ نے مذکورہ سوالات کے جواب دیے۔ (۱) کیا آپ اُنکے درس کے بارے میں کچھ جانتے ہیں؟ (۲) کیا آپ کے خیال میں اُسکی کیسٹیں سننا صحیح ہے؟ کیا اُسکی دعوت کو سامنا صحیح ہے؟ (۳) کچھ معلومات اُسکے اور اُسکے ادارے کے بارے میں بھیج دیں۔ یہ مسائل بہت ہی ضروری ہیں۔ کنیڈا میں درخواست یہ کہ آپ تفصیلی جواب دیں تاکہ میں یہاں عام کورس ڈاکٹر فرحت ہاشمی ”اللہ ربی انٹرنیشنل“ کی سربراہ کے بارے میں

اجواب حامداً و مصلحاً

”ڈاکٹر فرحت ہاشمی“ کلاس کو یونیورسٹی کو P.H.D. یا نٹہ اور آزاد خیال عورت ہے جس نے ظاہری طور پر تفسیر قرآن کریم اور دین کو انسان کو کے پیش کر کے نام سے ایک سالہ کورس ترتیب دیا ہے جسے ”ایک سالہ ڈیپو مگرس ان اسلامک اسٹڈیز“ کہا جاتا ہے۔ جبکہ درحقیقت وہ اپنی آزاد خیالی کی بناء پر غلط فہمی بلکہ صریح غلطی کا شکار ہے۔ اور اپنے مقلدین کو بھی وہ اسی کی تلقین کرتی ہے۔

اس کے نظریات میں سے بعض گمراہانہ ہیں جیسے اجماع امت کو اہمیت نہ دینا، تقلید کو عملی الاطلاق شرک قرار دینا (جہاں کا مطلب یہ کہ جو وہ سو سال کی (۱۹۰۰)

کی تاریخ میں امت مسلمہ کی اکثریت جو ائمہ مجتہدین میں سے کسی کی تقلید کرتی رہی ہے وہ
 مشرک ہے۔ اسی طرح قضاہ عمری فوت شدہ نمازوں کو قضاء کرنے کی ضرورت نہیں صرف
 تو یہ کافی ہے اور بعض نظریات جمہور امت کے خلاف ہیں۔ مثلاً تین طلاوتوں کو ایک قرار دینا
 جبکہ بعض بدعت وغیرہ بھی ہیں۔ جیسے خواتین کو جامعہ کے ساتھ نماز پڑھنے کی تلقین و سر
 ترغیب دینا، صلوة التیمم کی نماز کا جامعہ اہتمام کرنا، نیز بعض نظریات فقہانچیز بھی ہیں
 مثلاً علماء و فقہاء سے بدظن کرنا، مدارس دینیہ کی اہمیت ذہنوں سے کم کر کے خنجر کو درس
 کو علم دین کی حکمت کافی سمجھنا، اسی طرح جو مسائل کسی مجتہد نے قرآن و حدیث سے اپنے گھرے
 علم کی بناء پر مستطیع کیے ہیں، انہیں باطل قرار دیکر اسے قرآن و حدیث کے خلاف قرار دینا
 اور اس پر اصرار کرنے جیسے نظریات و اعتقادات کی تبلیغ و ترویج ”المدی انٹرنیشنل“ کے
 امتیازی اوصاف ہیں۔ انہیں کی بناء پر امت مسلمہ میں افتراق و انتشار اور اسلامی احکام میں
 شکوک و شبہات پیدا ہو رہا ہیں اور دین متین سے میزاری اور آزاد خیالی کا رجحان بڑھ رہا
 ہے جس کی بناء پر مسلمانوں کو ایسے اداروں میں تعلیم دینا حاصل کرنے اور ان کی معاونت وغیرہ
 سے احتراز لازم ہے۔ واللہ اعلم بالصواب

بندہ محمد عبد اللہ شاہ

دارالافتاء جامعہ بنوریہ کراچی

۲۸ رجب ۱۴۳۵ھ

الکوا
 بندہ سرورہ
 دارالافتاء جامعہ بنوریہ
 ۲۸ رجب ۱۴۳۵ھ



۱۵۹۱/۵۶



Translation of the Fatwā:

Dr. Farhat Hashmi is a P.H.D graduate of Glasgow University and is a free-minded woman who commenced a year course by apparently trying to simplify the Deen and the Tafseer of the Qurān which is known as “A One Year Diploma Course in Islamic Studies” whereas in reality through her free-minded thinking, she has become a victim of misunderstanding. In fact a victim of making apparent errors and instructing her associates of the same.

Many of her perspectives are misguiding such as, refuting the importance of *Ijma* (consensus) of the Ummah, generally declaring the following of a Mazhab as Shirk, (which means that for the past 14 centuries, majority of the Muslim population who adhered to a Mazhab were all Mushriks). Similarly, one who has missed numerous amounts of Salāhs in his life does not need to perform those Salāhs, merely doing *Taubāh* is enough.

Many of her views are against the majority. For e.g. considering 3 divorces as 1 divorce while some of them are considered bid’ā , encouraging the woman folks in attending the Salāh with Jamā’t, giving the importance of offering Salātut-Tasbeeh with Jam’āt. Such views hold the potential of creating fitnā such as having false assumptions against the Ulamā (scholars) and the *Fuqahā* (jurists), freeing the importance of Deenī Madāris (Islāmic schools) from the minds of people and considering a short and simple course to be enough for acquiring knowledge. Similarly, the jurists who have put effort in deriving rulings through their deep knowledge of Quran and Hadith are declared as nullified

and the rulings are considered to be against the Quran and Hadith.

Propagation and development of such persistent views and beliefs are a distinctive attributes of “Al-Huda International”. Based on these beliefs and views, it is causing disputes and chaos and has created doubts regarding the rulings of Shari’āh in the minds of the Muslim Ummāh. The inclination towards exonerated and free minded thinking is rapidly increasing. Based on these facts, abstention from gaining admission in these institutions, teaching, and assisting are all necessary acts. And Allah knows the truth.

Muhammad Abdullah Hashmi
Darul Ifta Jami’āh Banoria Karachi
28/Rajab 1425 Hijri

Touching an English copy of the Quran without wudhu

Q: Touching an English copy of the Quran without wudhu and Clarification of the word بالفارسية

A:

Touching an English copy of the Quran without wudhu and Clarification of the word بالفارسية

On September 11, 2011, the following question was posed to the Darul Iftaa:

“Are Muslims allowed to read an English copy of the Quran without Wudhu?”

The English copy of the Quran does not have Arabic in it; only the English translation.”

The answer was assigned to me and the answer issued was that it is **impermissible** for a Muslim to touch a translation of the Quran without wudhu. This answer was issued in the light of the following texts:

كذا الوضوء فرض لمس القرآن و لو اية مكتوبة على درهم او حائط... و لو بالفارسية ان مسها كس المكتوب. و لو بالفارسية يحرم مسه اتفاقا. (مراقي الفلاح)

و لو كان القرآن مكتوبا بالفارسية يكره لهم مسه عند أبي حنيفة و كذا عندهما على الصحيح. هكذا في الخلاصة. (الفتاوى الهندية)

When I wrote the answer after quoting these texts and other Urdu *fatawa*, Mufti Saheb simply put a cross on my fatwa and told me to apply my mind further. In my second attempt I came to the same conclusion and after making some minor tweaks and adjustments to my previous answer, I gave him my second answer. Mufti Saheb just put another cross on it and sent me back. Mufti Saheb does not initially point out our mistakes. This makes us jolt our thinking. I thought it might be a grammatical error in my answer or that I might not have phrased my answer correctly because Mufti Saheb is very particular about these issues, but I got sent back another four times that day. I don't know how many more times I got sent back before completing this research. By the evening, I grew despondent and did not know what else I could do to make Mufti Saheb approve

the answer, so I approached Mufti Saheb and asked him what was wrong with the answer. He told me to first check the ruling of writing and publishing a translation of the Quran without the Arabic. He referred me to '*Jawahirul fiqh*' by Hazrat Mufti Shafi Usmani Saheb *Rahimabullah*.

I read through the relevant chapters of the book and came to the conclusion that it is impermissible to write and publish a translation of the Holy Quran without the Arabic in it.²⁰⁷ Thereafter I applied my mind and thought that if it is impermissible to publish an english version of the Quran without the Arabic, hence it should be permissible to touch a translation of the Quran without wudhu. This is further supported by the fact that the Fuqha give permission to touch a Tafsir of the Quran with the actual Arabic Quran without wudhu^{208 209}, (when the Tafsir is more than the Quran).

²⁰⁷ و يمنع من كتابة القرآن بالفارسية بالاجماع، لانه يؤدي الى الاخلال بحفظ القرآن، لانا امرنا بحفظ

اللفظ و المعنى... (التجنيس والمزيد، ج. ١، ص. ٤٧٧، ادارة القرآن والعلوم الاسلامية)

إِنْ اِعْتَادَ الْقُرْآنَ بِالْفَارِسِيَّةِ أَوْ أَرَادَ أَنْ يَكْتُبَ مُصْحَفًا بِهَا يُمْنَعُ، وَإِنْ فَعَلَ فِي آيَةٍ أَوْ آيَتَيْنِ لَا، فَإِنْ كَتَبَ

الْقُرْآنَ وَتَفْسِيرَ كُلِّ حَرْفٍ وَتَرْجَمَتَهُ جَازَ... (رد المحتار، ج. ١، ص. ٤٨٦، دار الفكر)

²⁰⁸ وَقَدْ جَوَّزَ أَصْحَابُنَا مَسَّ كُتُبِ التَّفْسِيرِ لِلْمُحَدِّثِ... (رد المحتار، ج. ١، ص. ١٧٧)

احسن الفتاوى، ج. ٢، ص. ٢٧، ايج ايم سعيد

قوله (إلا التفسير) أي فلا يرخص ولو كان التفسير أكثر وهو صادق بأن يكون فرضاً أو واجباً لأن

عدم الرخصة يجامعها فقول المصنف وهو يقتضي الخ

فيه تأمل ونقل العلامة نوح عن الجوهرية والسراج إن كتب التفسير لا يجوز مس موضع القرآن منها وله

أن يمس غيرها بخلاف المصحف لأن جميع ذلك تبع له اهـ (حاشية الطحاوي على مراقي الفلاح، ج. ١،

ص. ٥٤، المطبعة الكبرى الأميرية)

On the 14th of September 2011, I found the following text in *mansooatul fiqhiiyyah al kuwaitiyyah* which seemed to support this view:

المصحف إن كتب على لفظه العربي بحروف غير عربية فهو مصحف و له احكام المصحف. و بهذا صرح الحنفية. ففي الفتاوى الهندية و تنوير الابصار: يكره عند ابي حنيفة لغير المتطهر مس المصحف و لو مكتوبا بالفارسية. و كذا عند الصاحبين على الصحيح...
اما ترجمة معاني القرآن باللغات الاعجمية فليست قرانا، بل هي نوع من التفسير ، و عليه فلا بأس ان يمسها المحدث عند من لا يمنع مس المحدث لكتب التفسير^{٢١٠}

This text explains that if the Quran is written in non-arabic letters that resemble the arabic (transliteration), then it will be regarded to be under the ruling of a Quran and the laws of the

Quran will apply to it (wudhu...) Also, it further mentions that the ***‘tarjumatu ma’āni al Quran* (translation of the Quran)** in another language will not be regarded as a Quran.

This then led me to examine the word *الفارسية* used by the *Fuqaha*.²¹¹ Does it mean **translation** or **transliteration**?

^{٢٠٩} قال: ويجوز مس التفسير فهو كسائر الكتب الشرعية بل ظاهره أنه قول أصحابنا جميعا، ومن أثبت الكراهة في التفسير نظر إلى ما فيها من الآيات، ومن نفاه نظر إلى أن الأكثر ليس كذلك، إلا أن يقال إن القرآن فيه أكثر من غيره (حاشية ابن عابدين)

^{٢١٠} (الموسوعة الفقهية الكويتية، ج. ٣٨، ص. ١٠، وزارة الأوقاف والشئون الإسلامية)

^{٢١١} ولو كان القرآن مكتوبا بالفارسية يحرم على الجنب والحائض مسه بالإجماع وهو الصحيح ، أما عند أبي حنيفة فظاهر وكذلك عندهما ؛ لأنه قرآن عندهما حتى يتعلق به جواز الصلاة في حق من لا يحسن العربية – (البحر الرائق، ج. ١، ص. ٢١٢، دار الكتاب الإسلامي)

Prior to discussing this, let us examine the ruling of performing salāh in non-Arabic.

Ruling of performing Salāh in non-Arabic

The Ahnāf are of the opinion that it is permissible for one who does not know Arabic to perform salah in non-Arabic.²¹² Consider the following texts that clearly explain that if one does not know Arabic, it will be permissible for him to perform his salāh in الفارسية.

وإذا قرأ في الصلاة بالفارسية جاز قراءته سواء كان يحسن العربية أو لا يحسن، غير أنه إن كان يحسن العربية يكره، وهذا قول أبي حنيفة، وقال أبو يوسف ومحمد: إن كان يحسن العربية لا تجوز قراءته، وإن كان لا يحسن العربية يجوز. فالعبرة عند أبي حنيفة للمعنى وعندهما للفظ والمعنى إذا قدر عليهما، وذكر شيخ الإسلام في شرح كتاب الصلاة شمس الأئمة السرخسي في شرح الجامع الصغير رجوع أبي حنيفة إلى قولها رحمهما الله،²¹³

قال الشيخ الإمام الأجل شمس الأئمة الحلواني: إن أبا حنيفة رحمه الله إنما جاز قراء القرآن بالفارسية إذا قرأ آية قصيرة يعني قرأ ترجمة آية قصيرة؛ لأن الصلاة عنده تجوز بأدنى الآيات²¹⁴

There is a misunderstanding that Imam Abu Hanīfa *radhiallahu anhu* has permitted a person who is well versed in

و يحرم و لو كتب بالفارسية اجماعا لتعلق جواز الصلاة به للعاجز، وكذا ساءر الكتب السبابة كما في القهستاني عن الذخيرة نعم ينبغي ان يخص ما لم يدل منها. (حاشية الطحطاوي على مراقي الفلاح،

ج. ١، ص. ١٤٣، دار الكتب العلمية)

²¹²، رد المحتار، بدائع الصنائع

²¹³ المحيط البرهاني

²¹⁴ المحيط البرهاني

Arabic to pray in non Arabic, however, his *rujū* ' (retraction) from this opinion has been recorded.²¹⁵

The authors of *al-mawsūʿat al-fiqhiyah al-islāmiyah* are of the opinion that Imam Abu Hanīfa has given permission for one to recite in non Arabic on condition that the non Arabic words sound the same as the Arabic words when pronounced²¹⁶. This, however, is incorrect. There are variations regarding the leeway Imam Abu Hanīfa *radhiyallahu anhu* has given. These variations are clearly stated in *Al-Muḥit al-Burhān*²¹⁷ and it seems that the authors of *al-*

²¹⁵ العناية شرح الهداية , تبين الحقائق , الدر المختار , رد المحتار , فتح القدير , بدائع الصنائع
²¹⁶ المصحف إن كتب على لفظه العربي بحروف غير عربية فهو مصحف وله أحكام المصحف. وهذا
صرح الحنفية. ففي الفتاوى الهندية و تنوير الابصار: يكره عند أبي حنيفة لغير المتطهر من المصحف و
لو مكتوباً بالفارسية. وكذا عند الصاحبين على الصحيح...

أما ترجمة معاني القرآن باللغات الأجنبية فليست قرأنا، بل هي نوع من التفسير، و عليه فلا بأس أن
يمسها المحدث عند من لا يمنع من المحدث لكتب التفسير

²¹⁷ قال الشيخ الإمام الأجل شمس الأئمة الحلواني: إن أبا حنيفة رحمه الله إنما جوز قراءة القرآن
بالفارسية إذا قرأ آية قصيرة يعني قرأ ترجمة آية قصيرة؛ لأن الصلاة عنده تجوز بأدنى الآيات، ثم ذكر أبو
سعيد البردعي أن أبا حنيفة رحمه الله إنما جوز القراءة بالفارسية خاصة، دون غيرها من اللسان، أمر به
بالعربية على ما جاء في الحديث «لسان أهل الجنة العربية والفارسية الدرية»، والأصح أن الاختلاف في
جميع اللسان واللغات، نحو التركية والهندية والرومية خلاف واحد، ثم إنما يجوز عند أبي حنيفة رحمه
الله إذا كان مقطوع القول بأن ما أتى به هو المعنى، ويكون على نظم القرآن نحو قوله تعالى {وَمَنْ يَقْتُلْ
مُؤْمِنًا مُتَعَمِّدًا فَجَزَاءُ مِثْمَمٌ خَالِدًا فِيهَا وَغَصِبَ اللَّهُ عَلَيْهِ وَلَعَنَهُ وَأَعَدَّ لَهُ عَذَابًا عَظِيمًا} (النساء: ٩٣) سترى
وي دونق ونحو قوله تعالى {فَجَمَعَهُمْ جَمْعًا} (الكهف: ٩٩) وقال تعالى: {مَعِيشَةً ضَنْكًا} (طه: ١٢٤)
، فأما إذا لم يكن على نظم القرآن لا يجوز.

قال الإمام الزاهد الصفار رحمه الله يجوز كيف ما كان ذكر في باب السهو، قال بعضهم: إنما يجوز إذا كان
ذلك..... كسورة الإخلاص، فأما إذا كان من القصص، فإنه لا يجوز، كقوله تعالى: {اقْتُلُوا يُوسُفَ}

mansūa 't al-fiqhīyah al-islāmīyah did not consider the *rājih* (preferred/ prevalent) opinion.

The A'imā e Thalāth are of the opinion that it is impermissible for one to pray his salah in non Arabic whether he knows Arabic or not²¹⁸ as the translation of the Quran is regarded to be Tafsīr and the recitation of a Tafsīr is not permissible in Salāh. (This will be mentioned in with more detail further on). They also say that the translation of the Quran will not be regarded to be a Quran as a translation of the Quran does not have numerous qualities of the Quran. This is why it will be permissible for a *hāidh* and *junubī* to recite the translation of the Quran.²¹⁹

وقال الشافعي: لا تجوز قراءته على كل حال، وأجمعوا على أنه لا تفسد صلاته بالقراءة بالفارسية إنما الخلاف في الجواز، احتج الشافعي رحمه الله بقوله تعالى: {إِنَّا جَعَلْنَاهُ قُرْآنًا عَرَبِيًّا} (الزخرف: ٣) الله تعالى أخبر أن القرآن

(يوسف: ٩) فقال بكشند يوسف لا، فإنه لا يجوز وتفسد صلاته، والصحيح أنه يجوز في الكل، والله أعلم.

²³ ولا تجزئه القراءة بغير العربية ولا إبدال لفظها بلفظ عربي سواء أحسن قراءتها بالعربية أول لم يحسن وبه قال الشافعي و أبو يوسف و محمد وقال أبو حنيفة: يجوز ذلك وقال بعض أصحابه إنما يجوز لمن لم يحسن العربية واحتج بقوله تعالى: { وأوحى إلي هذا القرآن لأنذركم به ومن بلغ } ولا ينذر كل قوم إلا بلسانهم

ولنا: قول الله تعالى: { قرآنًا عربيًا } وقوله تعالى: { بلسان عربي مبين } ولأن القرآن معجزة لفظه ومعناه فإذا غير خرج عن نظمه فلم يكن قرآنًا ولا مثله وإنما يكون تفسيره له ولو كان تفسيره مثله لما عجزوا عنه لما تحداهم بالأتين بسورة مثله أما الانتذار فإنه إذا فسرهم لم كان الانتذار بالمفسر دون التفسير (المغني في فقه الإمام أحمد بن حنبل الشيباني)

²¹⁹ القيلوبي، روضة الطالبين، نهاية المحتاج، المجموع، المغني، كشف القناع

عربي، والفارسي غير العربي، فلا يكون قرآنًا، فلا تجوز صلاته و.... القرآن اسم للمعجز، والإعجاز في النظم والمعنى، فإذا قدر عليها لا يتأدى الفرض إلا بهما، وإذا عجز عن التعلم أتى بما قدر عليه كن عجز عن الركوع والسجود، فإنه يصلي بالإيماء.^{٢٢٠}

وَعِنْدَ الشَّافِعِيِّ - رَضِيَ اللَّهُ عَنْهُ - لَا تَجُوزُ الْقِرَاءَةُ بِالْفَارِسِيَّةِ بِحَالٍ وَلَكِنَّهُ إِنْ كَانَ لَا يُحْسِنُ الْعَرَبِيَّةَ، وَهُوَ أَهْلِي يُصَلِّي بِغَيْرِ قِرَاءَةٍ^{٢٢١}

مَذْهَبُنَا أَنَّهُ لَا يَجُوزُ قِرَاءَةُ الْقُرْآنِ بِغَيْرِ لِسَانِ الْعَرَبِ سِوَاءَ أَمَكُنْهُ الْعَرَبِيَّةُ أَوْ عَجَزَ عَنْهَا وَسِوَاءَ كَانَ فِي الصَّلَاةِ أَوْ غَيْرَهَا فَإِنَّ أَتَى بِتَرْجُمَتِهِ فِي صَلَاةٍ بَدَلًا عَنْ الْقِرَاءَةِ لَمْ تَصَحَّ صَلَاتُهُ سِوَاءَ أَحْسَنَ الْقِرَاءَةَ أَمْ لَا هَذَا مَذْهَبُنَا وَبِهِ قَالَ جَمَاهِيرُ الْعُلَمَاءِ مِنْهُمْ مَالِكٌ وَأَحْمَدُ وَذَاوُدُ وَقَالَ أَبُو حَنِيفَةَ تَجُوزُ وَتَصَحُّ بِهِ الصَّلَاةُ مُطْلَقًا وَقَالَ أَبُو يُوسُفَ وَمُحَمَّدٌ يَجُوزُ لِلْعَاجِزِ دُونَ الْقَادِرِ وَاحْتِجُّ لِأَبِي حَنِيفَةَ بِقَوْلِهِ تَعَالَى (قُلِ اللَّهُ شَهِيدٌ بِبَيْنِي وَبَيْنَكُمْ وَأُوحِيَ إِلَيَّ هَذَا الْقُرْآنُ لِأُنذِرَكُمْ بِهِ) قَالُوا وَالْعَجَمُ لَا يَقْبَلُونَ الْإِنْذَارَ إِلَّا بِتَرْجُمَتِهِ وَفِي الصَّحِيحَيْنِ إِنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ " أَنْزَلَ الْقُرْآنَ عَلَى سَبْعَةِ أَحْزَفٍ " وَعَنْ سَلْمَانَ الْفَارِسِيِّ رَضِيَ اللَّهُ عَنْهُ أَنَّ قَوْمًا مِنَ الْفُزَيْرِ سَأَلُوهُ أَنْ يَكْتُبَ لَهُمْ شَيْئًا مِنَ الْقُرْآنِ فَكَتَبَ لَهُمْ فَاتَّخَذَهُ الْكِتَابُ بِالْفَارِسِيَّةِ وَلِأَنَّهُ ذَكَرَ فَقَامَتْ تَرْجُمَتُهُ مَقَامَهُ كَالشَّهَادَتَيْنِ فِي الْإِسْلَامِ وَقِيَّاسًا عَلَى جَوَازِ تَرْجُمَةِ حَدِيثِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَقِيَّاسًا عَلَى جَوَازِ التَّسْبِيحِ بِالْعَجَمِيَّةِ^{٢٢٢}

To conclude, the Ahnāf are of the opinion that if one does not know Arabic, he may resort to recitation in الفارسية in Salah, whereas the A'imā e Thalāth are of that it is impermissible for a person; whether he knows Arabic or not, to pray salāh in الفارسية.

Is a *Translation* of a Quran, a Quran?

The next thing that must be clarified is the position of the Ulamā and Fuqahā on whether the **translation** of the Quran can be called a 'Quran' or whether it must be called a '**translation** of the Quran' or a 'Tafsīr'.

^{٢٢٠} المحيط البرهاني

^{٢٢١} المبسوط، ج. ١، ص. ٣٧، دار المعرفة

^{٢٢٢} الكتاب: المجموع شرح المذهب ((مع تكملة السبكي والمطيعي)) الناشر: دار الفكر

• يرى المالكية: أن القرآن لو كتب بلغة أعجمية، فإنه يجوز للمحدث مسه، لأن كتابة القرآن بغير العربية، يكون تفسيراً للقرآن وليس بقرآن. قال السوقي: وأما لو كتب القرآن بالعجمي لجاز للمحدث مسه لأنه ليس بقرآن بل هو تفسير للقرآن أما إن كان المكتوب بغير العربية هو معاني القرآن، وليس القرآن، فمن باب أولى جواز مسه عند المالكية^{٢٢٣}

• يرى الحنابلة: ولا تجزئه القراءة بغير العربية ولا إبدال لفظها بلفظ عربي سواء أحسن قراءتها بالعربية أول لم يحسن وبه قال الشافعي و أبو يوسف و محمد وقال أبو حنيفة: يجوز ذلك وقال بعض أصحابه إنما يجوز لمن لم يحسن العربية واحتج بقوله تعالى: { وأوحى إلي هذا القرآن لأتذكرك به ومن بلغ } ولا ينذر كل قوم إلا بلسانهم ولنا: قول الله تعالى: { قرآنًا عربيًا } وقوله تعالى: { بلسان عربي مبين } ولأن القرآن معجزة لفظه ومعناه فإذا غير خرج عن نظمه فلم يكن قرآنًا ولا مثله وإنما يكون تفسيراً له ولو كان تفسيره مثله لما عجزوا عنه لما تحداهم بالآيتين بسورة مثله أما الانذار فانه إذا فسره لهم كان الانذار بالمفسر دون التفسير^{٢٢٤}

• يرى الأحناف: و يجب السجود على من تلا آية... و لو تلاها بالفارسية اتفاقاً فهم أو لم يفهم لكونها قرآنًا من وجه.
و قال الطحطاوي: (قوله: لكونها قرآنًا من وجه) أي نظراً للمعنى دون وجه نظراً للنظم، فباعتبار المعنى توجب السجدة و باعتبار النظم لا توجبها فتجب احتياطاً.^{٢٢٥}

From the above texts, we deduce that the A'imā e Thalāth are of the opinion that the Quran will only referred to as a Quran when it is **in its Arabic form**. If it is in any other language, it will be considered to be a Tafsīr of the Quran.

واحتجوا أيضاً بأن ترجمة القرآن ليست قرآنًا لأن القرآن هو هذا النظم المعجز وبالترجمة يزول الإعجاز فلم يجوز وكما أن الشعر يخرج ترجمته عن كونه شعراً فكذا القرآن واحتجوا أيضاً بأن ترجمة القرآن ليست قرآنًا لأن القرآن

^{٢٢٣} حاشية السوقي

^{٢٢٤} المغني في فقه الإمام أحمد بن حنبل الشيباني

^{٢٢٥} حاشية الطحطاوي مع مراقي الفلاح

هو هذا النظم المعجز وبالترجمة يزول الإعجاز فلم يجوز وكما ان الشعر يخرج ترجمته عن كونه شعرا فكذا القرآن^{٢٢٦}

However, according to the Ahnāf, there are two aspects of the Quran; the *naẓm* (actual text) and the *ma'na* (the meaning). The *ma'na* of the Quran will be considered to be Quran regardless of what language it may be translated in because the meaning of the Quran remains the same when translated. Whereas the *naẓm* will only be called 'Quran' when it is in Arabic.

According to the A'ima e thalāth; Imam Shāfi, Ahmad and Mālik *radhiyallahu anhum*, a translation of the Quran is not a Quran because the translation doesn't have the qualities of the actual Quran; for example: subjugating other texts.

ولنا: قول الله تعالى: { قرآنًا عربيًا } وقوله تعالى: { بلسان عربي مبين } ولأن القرآن معجزة لفظه ومعناه فإذا غير خرج عن نظمه فلم يكن قرآنًا ولا مثله وإنما يكون تفسيرًا له ولو كان تفسيره مثله لما عجزوا عنه لما تخدام بالاثنيان بسورة مثله أما الانذار فانه إذا فسرهم لم كان الانذار بالمفسر دون التفسير
ولنا: قول الله تعالى: { قرآنًا عربيًا } وقوله تعالى: { بلسان عربي مبين } ولأن القرآن معجزة لفظه ومعناه فإذا غير خرج عن نظمه فلم يكن قرآنًا ولا مثله وإنما يكون تفسيرًا له ولو كان تفسيره مثله لما عجزوا عنه لما تخدام بالاثنيان بسورة مثله أما الانذار فانه إذا فسرهم لم كان الانذار بالمفسر^{٢٢٧}

The Ahnāf argue in favour of the *ma'na* (translation) being Quran. They say that Allah *Ta'ālā* states in the Quran: "Verily it is in the scriptures of those before".

^{٢٢٦} المجموع شرح المذهب

^{٢٢٧} المغني في فقه الإمام أحمد بن حنبل الشيباني

وأبو حنيفة رحمه الله احتج بما روي أن الفرس كتبوا إلى سليمان أن يكتب لهم الفاتحة بالفارسية فكتبها إليهم، وكانوا يقرؤون في الصلاة حتى لانت ألسنتهم بالعربية، والدليل عليه قوله تعالى: {وَإِنَّهُ لَفِي زُبُرِ الْأَوَّلِينَ} (الشعراء)، ولا شك أن في زبر الأوليين هو المعنى دون اللفظ وإِنَّهُ لَفِي زُبُرِ الْأَوَّلِينَ^{٢٢٨}

It is recorded that the Persians wrote to Salmān al Fārsī *radhiyallahu anhu* and requested him to write the translation of *Surah al Fātiḥah* for them. When he wrote it, they recited *sūrah al Fātiḥa* in *Fārsī* in *Salāh* until their tongues adapted to the Arabic language.^{229 230}

The fact that the Persians recited in *Fārsī* clearly demonstrates that *ma'nā* is regarded as Quran.

The *Ahnāf* also cite the following verse in support of *ma'nā* being Quran:

إِنَّ هَذَا لَفِي الصُّحُفِ الْأُولَى، صُفُفِ إِبْرَاهِيمَ وَمُوسَى

^{٢٢٨}المحيط البرهاني

^{٢٢٩}المجموع للنووي

^{٢٣٠}سمعت أبا بكر محمد بن الحسين بن أحلم البخاري يقول: سمعت أبا الحسن نصر بن أحمد الشرقي يقول سمعت أبا بكر محمد بن عبد الله بن يزداد الرازي يقول سمعت محمد بن جعفر الفقيه يقول: سمعت أبا بكر محمد بن يوسف المعروف بأبي حنيفة الصغير يقول: بلغنا أن أهل فارس كتبوا إلى سلمان أن يكتب إليهم بشيء من القرآن بلسانهم فكتب إليهم: بسم الله تام إيزد بخشا وند بخشا يشركر اشتهل خيش خدائي همه جهمان بخشا وند بخشا شركر خدائي روزدادستان كبرا برستمب أوترا يباري خداهم كتوا ما رازاه آن ندهي كنخشمي توا با إيشان أو نبيرا هتند.

(فضائل القرآن للمستغفري، ص. ٤٩٣، دار ابن حزم)

“Verily this is in the previous scriptures; the scriptures of
Mūsā and Ibrāhīm”

(87:18/19)

The Ahnāf deduce from this verse that the same contents of the Quran were mentioned in these scriptures albeit in a different language. Even though they were in a different language, Allah Ta'ālā still states that “Verily **THIS** (Quran) was in the previous scriptures...” From this it is clear that a translation of the Quran is regarded as *Qurān min wajhil ma'nā* (Quran in the sense of the meaning).

To conclude, the *A'imā e Thalāth* are of the opinion that the **translation** of the Quran will be regarded as a **Tafsīr** of the Quran and that is why it will be permissible to touch it without wudhu and it will be impermissible for to use it in salāh, whereas the *Ahnāf* are of the opinion that the translation of the Quran is '**Quran min wajhil ma'naa**' which is why one must have wudhu to touch the translation of the Quran.

Is it permissible to touch a translation of the Qurān; without the Arabic, without wudhu?

From the aforementioned discussions, we conclude that according to the Ahnāf:

1. It is permissible for one who does not know Arabic to perform salāh in non- Arabic.
2. The translation of the Quran is regarded to be *Qurān min wajhil ma'nā*.

This now takes us back to the initial question: “Are Muslims allowed to read an English copy of the Quran that contains no Arabic without Wudhu?”

The basis of this is the juristic text بالفارسية. Does it mean **translation** or **transliteration**? If it means translation, it would only mean that touching a translation without wuhdu is impermissible; it would have no effect on the ruling of a transliteration. If it means transliteration, it would mean that touching both a translation and transliteration of the Quran without wudhu is impermissible.

Texts that indicate Translation	Reasons why Translation is meant
<p>وَرَوَى الْحَسَنُ عَنْ أَبِي حَنِيفَةَ رَحِمَهُمَا اللَّهُ أَنَّهُ إِذَا أَدَّنَ بِالْفَارِسِيَّةِ وَالثَّلَاثُ يَعْلَمُونَ أَنَّهُ أَذَانٌ جَارٌ، وَإِنْ كَانُوا لَا يَعْلَمُونَ ذَلِكَ لَمْ يَجُزْ لِأَنَّ الْمَقْصُودَ الْأَعْلَامَ وَلَمْ يَحْضُرْ بِهِ، ثُمَّ عِنْدَ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ إِنَّمَا يَجُوزُ إِذَا قَرَأَ بِالْفَارِسِيَّةِ إِذَا كَانَ يَتَيَقَّنُ بِأَنَّهُ مَعْنَى الْعَرَبِيَّةِ.</p>	<p>We understand this to mean the Translation because the condition of “people knowing that it is adhān” only makes sense when the translation of the adhān is given in a different language. If transliteration was meant, this condition wouldn’t be there because the transliteration sounds the same as the Arabic.</p>
<p>و يجب السجود على من تلا آية... ولو تلاها بالفارسية اتفاقا فهم او لم يفهم لكونها قرانا من وجه. و قال الطحطاوي: (قوله: لكونها قرانا من وجه) أي نظرا للمعنى دون وجه نظرا للنظم. فباعتبار المعنى</p>	<p>If transliteration was meant, then there would be no benefit in mentioning “if he understands or not”.</p>

<p>توجب السجدة و باعتبار النظم لا توجبها فتجب احتياطاً.</p>	<p>Also, if transliteration was meant then the following wouldn't make any sense "So sajdah is obligatory taking the meaning into consideration, not the <i>nazm</i>." If transliteration was meant, the opposite would be stated.</p>
<p>بلغنا أن أهل فارس كتبوا إلى سلمان أن يكتب إليهم بشيء من القرآن بلسانهم فكتب إليهم: بسم الله تام إيزد بخشا وند بخشا يشركر اشتهل خيش خدای همه جهان بخشا وند بخشا شرکر خدای روزدادستان کبرا برستم اوترا بیاری خدام کنوا ما راره آن ندهی کنشمی توا با ایشان او نبیرا هتد</p>	<p>This is absolutely clear; the actual translation is mentioned in the narration.</p>
<p>قال الشيخ الإمام الأجل شمس الأئمة الحلواني: إن أبا حنيفة رحمه الله إنما جوز قراء القرآن بالفارسية إذا قرأ آية قصيرة يعني قرأ ترجمة آية قصيرة؛ لأن الصلاة عنده تجوز بأدنى الآيات</p>	<p>This clearly means the translation due to the fact that this is mentioned in the text itself. "Meaning he recites the <i>tarjumah</i> (translation) of a small verse"</p>

There are also other narrations that can be used to prove that the translation is meant.^{231 232 233} But we will suffice with the ones mentioned above.

²³¹ وَكَذَلِكَ الْجَلَّافُ فِيمَا إِذَا تَشَهَّدَ بِالْفَارِسِيَّةِ أَوْ خَطَبَ الْإِمَامُ يَوْمَ الْجُمُعَةِ بِالْفَارِسِيَّةِ فَالْشَّافِعِيُّ - رَحِمَهُ اللَّهُ - يَقُولُ إِنَّ الْفَارِسِيَّةَ غَيْرُ الْقُرْآنِ قَالَ اللَّهُ - تَعَالَى -: {إِنَّا جَعَلْنَاهُ قُرْآنًا عَرَبِيًّا} [الزخرف: ٣] وَقَالَ اللَّهُ

Texts that indicate transliteration	Reasons why Transliteration is meant
<p>المصحف إن كتب على لفظه العربي بحروف غير عربية فهو مصحف وله احكام المصحف. و بهذا صرح الحنفية. ففي الفتاوى الهندية و تنوير الابصار: يكره عند ابي حنيفة لغير المتطهر مس المصحف و لو مكتوبا بالفارسية. وكذا عند الصاحبين على الصحيح...</p>	<p>It seems to us that this means that if the Quran is written in such non-arabic letters that resemble the arabic (transliteration), then it will be regarded to be under the ruling of a Quran.</p>

- تعالى :- {وَلَوْ جَعَلْنَاهُ قُرْآنًا عَجَبِيًّا} [فصلت: ٤٤] الآية فالواجب قراءة القرآن، فلا يتأذى بعينه بالفارسية، والفارسية من كلام الناس فتفسد الصلاة وأبو يوسف ومحمد رحمهما الله قالا القرآن معجز والإعجاز في التظم والمعنى فإذا قدر عليهما، فلا يتأذى الواجب إلا بهما، وإذا عجز عن التظم أتى بما قدر عليه كمن عجز عن الركوع والسجود يصلي بالإيماء وأبو حنيفة - رحمه الله - استدل بما روي أن الفرس كتبوا إلى سلمان - رضي الله عنه - أن يكتب لهم الفاتحة بالفارسية فكانوا يقرءون ذلك في الصلاة حتى لانت ألسنتهم للعربية، ثم الواجب عليه قراءة المعجز والإعجاز في المعنى، فإن القرآن حجة على الناس كافة وعجز الفرس عن الإتيان بمثله إنما يظهر بلسانهم والقرآن كلام الله - تعالى - غير مخلوق ولا محدث واللغات كلها محدثة فعرفنا أنه لا يجوز أن يقال إنه قرآن بلسان مخصوص، كيف وقد قال الله تعالى: {وإنه لفي زبر الأولين} [الشعراء: ١٩٦] وقد كان بلسانهم. (المبسوط، ج. ١، ص. ٣٧، دار المعرفة) ^{٢٢} وفي التخيير ما جاء في القرآن من اليد والوجه لله تعالى وليس بجارية هل يجوز إطلاق هذه الأشياء بالفارسية قال بعض المشايخ رحمهم الله تعالى يجوز إذا لم يعتد الجوارح وقال أكثرهم لا يصح وعليه الاعتماد كذا في التناخية (الفتاوى الهندية، ج. ٢، ص. ٢٥٨، دار الفكر) ^{٢٣} وعنه، قال كان أهل الكتاب يقرءون التوراة بالعبرانية، ويُفسرونها بالعربية لأهل الإسلام. فقال رسول الله - صلى الله عليه وسلم -: «لا تصدقوا أهل الكتاب ولا تكذبوهم، و {قولوا آمنا بالله وما أنزل إلينا} [البقرة: ١٣٦] الآية». رواه البخاري (قال: كان أهل الكتاب)، أي: اليهود (يقرءون التوراة بالعبرانية): يكسر العين (ويُفسرونها)، أي: يترجمونها (بالعربية لأهل الإسلام) (...مرقاة المفاتيح شرح مشكاة المصابيح، ج. ١، ص. ٢٤٠، دار الفكر)

	<p>The answer given is that the authors of <i>al-mawsūa 't al-fiqhīyah al-islāmiyah</i> did not consider the <i>rājih</i> (preferred/ prevalent) opinion in regards to the matter as stated previously.</p> <p>It is also possible the authors adopted an attitude of majority ruling (of the <i>A'ima e thalāth</i>) and interpret the minority ruling (the Ahnāf) in such a way that it supports the majority opinion.</p>
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To conclude, the Ahnāf are of the opinion that there are two aspects of the Quran. One is the *naẓm* and the other is the *ma'nā*. Whenever one of these two or both are found (and prevalent), then one must have wudhu to touch it. It can be simplified into the following:

1. **Quran**= Wudhu is required to touch it
2. **Arabic + Translation**= Wudhu is required to touch it.
3. **Translation ONLY**= Wudhu is required to touch it *ibhtiyātan* because it is *Qurān min wajbil ma'nā*; this ruling is in the light of the text mentioned in *hāshiyah at Tabāwī*:

و قال الطحاوي: (قوله: لكونها قرانا من وجه) أي نظرا للمعنى دون وجه نظرا للنظم، فباعتبار المعنى توجب السجدة و باعتبار النظم لا توجبها فتجب احتياطا^{٢٣٤}

4. **Arabic + Transliteration**= Wudhu is not required (same ruling as Tafsir- depends on which is dominant)
5. **Transliteration ONLY**= Wudhu is not required.
(Transliteration is neither *Qurān min wajh al nazm* or *min wajh al ma'nā*.

Christmas and the Economic boom

Various festive seasons; Eid for Muslims, Diwali for Hindus, Christmas for Christians are celebrated according to one's beliefs. A common cause in all festivities is shopping in order to celebrate. Just as Muslims shop at non-Muslim outlets to fulfil their general and specific needs during Eid, during Christmas, Christians will also frequent Muslim owned shops to fulfil their general and specific needs.

A festive season comes with an economic boom. According to statistics, 18% of the annual revenue is attained in the festive period. Therefore the Christmas season presents an opportunity to earn extra income.

As human beings, we are intimately affected with means and unfortunately we begin to think that the means that provide

^{٢٣٤} (حاشية الطحاوي مع مراقي الفلاح)

for us **is** the provider **whereas it is not**. As Muslims our Aqidah is that Allah **is the Provider**; the festive season **is merely a means**. Be conscious of this belief at all times. With this correct belief if we earn extra, that will lead us to make shukr. If adverse conditions come, we make sabr. If one believes that the means is providing and one did not do well in business, that will lead to grief and agony.

The Darul Iftaa makes dua that Allah Ta'ala grant all our businessmen lots of barakah and blessings during this festive economic season. Ameen.

Further advises tomorrow and the entire week on what to do in one's business during this festive economic season.

Christmas and the Economic boom day 2

Yesterday's advice

The Christmas festive season is merely a means for extra income. Allah is the actual Provider.

Today's advice

We are living in a world of means. Working hard and exerting oneself is a means of extra income. During this festive economic season, commence business early in the morning. The Prophet salallahu alaihi wasallam said,

"اللَّهُمَّ بَارِكْ لِأُمَّتِي فِي بُكُورِهَا"

“O Allah, bless my ummah in their early hours of the day.”

(Sunan Tirmidhi hadith no.1212)

The early hours are submerged in blessings. It will be noticed that the amount of work carried out in this time is more in comparison to any other time of the day.

Whenever the Prophet salallahu alaihi wasallam exported or imported goods, he would send the caravan in the morning. The sahabah state that these caravans would return with a high profit margin. (Sunan Tirmidhi)

The Darul Iftaa makes dua that Allah Ta’ala grant all our businessmen lots of barakah and blessings during this festive economic season. Ameen.

Further advises tomorrow and the entire week on what to do in one’s business during this festive economic season.

Christmas and the Economic boom: Day 3

Yesterday’s advice

We need to adopt the means at our disposal to earn an extra income. The early hours of the day are a means of great blessing and barakah. The Prophet salallahu alaihi wasallam and the Sahabah encouraged commencing business early in the morning.

Today’s advice

In the festive period of Christmas, majority of the shoppers are Christians. They are out looking for bargains and sales in order to buy gifts for their loved ones.

A Muslim should hunt for opportunities to convey the message of Islam. This Christmas shopping spree presents Muslim businessmen a golden opportunity to manifest the true nature and spirit of Islam.

We need to adopt a gentle and courteous disposition in these days all the more. Whoever enters our stores, they come seeking the dunya. Let it be that when they exit your shop, they are impressed with the sublime character of Islam and Muslims.

Do not confront any Christian regarding beliefs around Christianity. This is not the time. Any discussion against Christianity at this time will be counter-productive. Rather, impress them with your akhlaaq.

Allah Ta'ala says,

ادْعُ إِلَى سَبِيلِ رَبِّكَ بِالْحُكْمِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَجَادِلْهُمْ بِالَّتِي هِيَ أَحْسَنُ (النحل: ١٢٥)

Invite to the way of your Lord with wisdom and good instruction, and argue with them in a way that is best.

The Darul Iftaa makes dua that Allah Ta'ala grant all our businessmen lots of barakah and blessings during this festive economic season. Ameen.

Christmas and the Economic boom: Day 4

Yesterday's advice

With the thousands of non-Muslims shopping at Muslim stores, we have a golden opportunity to impress non-Muslims with our gentle disposition and akhlaaq.

Today's advice

Before proceeding to do business, perform two rakats salaatul haajah and ask Allah to put barakah in your business and protect you against losses.

Also, be mindful of performing your fardh salaah on time. Missing your fardh salaah deprives one of barakah in business.

The Darul Iftaa makes dua that Allah Ta'ala grant all our businessmen lots of barakah and blessings during this festive economic season. Ameen.

Christmas and the Economic boom: Day 5

Yesterday's advice

Before proceeding to do business, perform two rakaat salaatul haajah and ask Allah to put barakah in your businesses and protect you against loss. Be mindful of performing fardh salaah on time.

Today's advice

The Prophet sallahu alaihi wasallam said,

“Verily these shopping centres are blemished with vain talk and lies, so offset it’s evils by way of sadaqah.”

(Sunan Nasai Hadith no.3799)

The act of giving in charity is a display of gratitude for what Allah has given us. Sadaqah averts the wrath of Allah. It attracts favourable economic conditions. It contributes to the wholesomeness of business. Give some sadaqah regularly, especially in this busy period in order to witness purity and barakah in wealth.

The Darul Iftaa makes dua that Allah Ta’ala grant all our businessmen lots of barakah and blessings during this festive economic season. Ameen.

Response to article in Huffington Post,'What's up with Muslims and dogs.'

An article appeared in the Huffington Post ‘What’s up with Muslims and dogs’ written by Ingrid Mattson. She attempts to prove that prohibition of dogs is a cultural issue and has nothing to do with Deen. Ingrid Mattson’s profile states that she is a professor of Islamic studies. Below is the article from Huffington Post.

We had many requests to respond to the article.

Advocate Mufti Emran Vawda has adequately responded to the article rebutting her erroneous claims and expounding

the reality of dogs from the Shariah perspective with academic references.

It is very unfortunate that today the claim as professor of Islamic studies has become a title without any merit. This becomes very clear from the texts cited by Advocate Mufti Emran Vawda. Anyone having little knowledge of Ahaadith would have known these Ahaadith referred to in the response. The article makes an enjoyable academic read.

Mufti Ebrahim Desai

What's Up With Muslims and Dogs?

By Ingrid Mattson

I'm not a big follower of reality television, but was happy to hear about TLC's new reality show "All-American Muslim." We know that personal contact is the best way to break down stereotypes, but with Muslims less than 2% of the U.S. population, many Americans will never get to know a Muslim. Meeting us through reality television might not be ideal, but it's better than nothing.

After watching "All-American Muslim" for a few weeks, I now believe that the show is good for our community beyond the way it might lessen prejudice against Muslims. The additional benefit is that the show has engaged our community in discussing some of the many challenges we face making distinctions between critical religious values and flexible cultural practices. In the fourth episode, the issue of Muslims having dogs in the home came up, and this is worth further discussion.

In this episode, newlywed Arab-American Shadia tells Jeff, her Irish-American convert husband, that she does not want his dog to move with them to their new home. Shadia has allergies, and her asthma is exacerbated by the dog's hair. This is an understandable and common dilemma. But Shadia bolsters her position with statements about the impermissibility for a Muslim to have dogs in the home. Her father will not pray in the house if the dog is there, she says, because dog hair is impure and a prayer space needs to be pure. Later, Shadia backs off from the religious argument, admitting that the main reason she doesn't want a dog in the house is "I wasn't raised with dogs; I'm not used to them." I appreciated this moment of honesty. The use of a religious norm as a trump card in an argument we want to win is a temptation we all face.

So what is the Islamic position about dogs? In fact, there are a variety of opinions according to different legal schools. The majority consider the saliva of dogs to be impure, while the Maliki school makes a distinction between domestic and wild dogs, only considering the saliva of the latter to be impure. The question for Muslims observant of other schools of law is, what are the implications of such an impurity?

These Muslims should remember that there are many other impurities present in our homes, mostly in the form of human waste, blood, and other bodily fluids. It is fairly common for such impurities to come in contact with our clothes, and we simply wash them off or change our clothes for prayer. When you have children

at home, it sometimes seems you can never get away from human waste. But we manage it, often by designating a special space and clothing kept clean for prayer.

Some Muslims object to having a dog in the home because of a prophetic report that angels do not enter a home with dogs in it. If a Muslim accepts this report as authentic, it still requires an analysis of context to determine its meaning and legal application. Ordinary people are not recipients of divine revelation through angelic messengers, so it is possible that this statement, although in general form, might suggest a rule for the Prophet's home, not all homes. This interpretation is strengthened by the fact the Qur'an states that angels are always present, protecting us and recording our good and bad actions.

Whatever the implications of this report, there is no doubt that the Qur'an is positive about dogs. The Qur'an allows the use of hunting dogs, which is one of the reasons the Maliki school makes a distinction between domestic and wild dogs - since we can eat game that has been in a retriever's mouth. But most compelling is the Qur'anic description of a dog who kept company with righteous youths escaping religious persecution. The party finds shelter in a cave where God places them in a deep sleep; the Qur'an (18:18) says:

You would have thought them awake, but they were asleep And [God] turned them on their right sides then on their left sides And their dog stretched his forelegs across the threshold

This tender description of the dog guarding the cave makes it clear that the animal is good company for believers. Legal scholars might argue about the proper location of the dog - that he should stay on the threshold of the home, not inside - but home designs vary across cultures. In warm climates, an outdoor courtyard is a perfectly humane place for a dog - its physical and social needs can be met in the yard. This is not the case in cold climates, where people stay indoors most of the day for months at a time.

Extreme concern about the uncleanness of dogs likely arose historically as Islam became more of an urban phenomenon. In medieval cities, as in modern cities in underdeveloped countries, crowding of people and animals leads to the rapid spread of disease and animal control is not a priority. A few run-ins with an aggressive or diseased animal can result in excessive caution, fear and negativity.

I have long felt badly that many Muslims fear dogs as a result of negative experiences and that they resort to confused religious reasoning to shun them. It is one of the reasons why I try to introduce my students and friends to my very sweet, very large dog Ziggy.

Ziggy came into our home to be like the dog in the cave: to keep company to my child who lies in exile from the world because of a debilitating illness. He has been nothing but a blessing - guarding the house while we sleep, forcing me to exercise daily, and showing us, as he happily follows our tiny cat around the yard, that if cats

and dogs can get along so well, then we people have no excuse.

There is another reason why I love having my dog around. Ziggy came from Tennessee. He was rescued by an animal control officer who uses her own resources to save dogs who would otherwise be destroyed in a few days. Tina saves as many dogs as she can by bringing them home and putting them up for adoption on the internet. When I called Tina to speak about adopting Ziggy, she had 65 dogs she had rescued out in her yard. After being disheartened by some terrible things that have come out of Tennessee lately - mosque burnings and anti-Shari`ah legislation among them - I love looking at Ziggy and thinking about the woman with the thick southern accent and big heart who saved his life.

Muslims and dogs: Is it really just a cultural thing?

Post by: Emraan Vawda²³⁵

A boil that erupts on the foot does not necessarily mean that one has to rush off to the podiatrist. It could be indicative of a serious imbalance in the blood, which is likely to affect the whole body. When I received a copy of an

²³⁵ An Islamic scholar and Mufti (juriconsult) from Durban, South Africa.

article entitled “What's Up With Muslims and Dogs?”²³⁶ by Ingrid Mattson, I could not help discern the underlying hidden malady that incidentally manifested itself through the topic of Muslims keeping dogs in the home. The brief column is a good example of the common ailment of apologetics coupled with pseudo-scholastics.

The unique feature of traditional Islamic learning is the continuous chain of authorization. A genuine Islamic scholar is tutored for a considerable period under the feet of a master until such time that he/she receives Ijaazah (authorization). The teacher himself or herself must have been similarly authorized. The uninterrupted and verifiable chain of reliable transmitters eventually links up directly with the Messenger of Allah (Sallallahu alayhi wa sallam). It is this unparalleled feature that sets traditional Ulama apart from self styled scholars of Islam. Therefore the following maxim has been repeatedly echoed over the past fourteen centuries:

Had there been no safeguard such as continuous transmission, anyone could have said anything they wished.

The column is a stark example of personal confusion passed off as Islamic academics, supposedly representing the correct position of the religious texts.

²³⁶ http://www.huffingtonpost.com/ingrid-mattson/whats-up-with-muslims-and_b_1144819.html

The writer attempts to transpose the prohibition of keeping dogs in the home from the religious source to a social misunderstanding. It is after all, she argues, just a cultural thing, and has been ignorantly attributed to the Islamic religious texts. In an attempt to urge the reader to “back off from the religious argument”, she endeavours to re-interpret the texts. Herein lies the fundamental flaw of her reasoning. No matter how one interprets the religious texts, it is nonetheless an interpretation of religion, which cannot be relabelled as culture. It remains religious, whether or not we agree with such an interpretation.

In order to bolster her theory, she raises the question of the status of dog’s saliva. However, the topic under question was whether the prohibition of keeping dogs in the home is based on Islam or culture. The impurity or otherwise of dog’s saliva is merely one factor that could influence the real question. There are other reasons why Islam has prohibited the keeping of dogs in the home, as will be elucidated below. Zooming in on the matter to saliva conveniently obscures the topic’s broader religious angle.

The writer narrows the topic to the dog’s saliva. What she does not tell us is that there are different views within the Maliki school, one being that the saliva is impure. Even if we accept the view within the Maliki school that the saliva is not impure, how do we explain the fact that according to all the Ulama (scholars) within the Maliki school the keeping of dogs as pets is reprehensible. According to the majority of schools, all the dog’s body fluids, including sweat, are impure. Two of the four juristic schools view the hair that falls of the dog as impure as well. Muslims’ concern about

the purity of their body, clothes and immediate environment can hardly be termed as something cultural. It is precisely a religious issue. This belies the writer's vociferation that Muslims need to back off from the religious argument.

Very strangely, the impurity issue is sort to be downplayed by the ridiculous proposition that those with children at home have impurity all over the place, and they still manage to live with it. I don't know whether this is a cultural thing or not. Maybe in the 'All American Muslim' culture homes with children have impurities spread all over the place. Where I come from, certainly this is the furthest from the truth. The same goes for the majority of Muslims in the world. Yes, with young children there is the occasional mishap which is attended to. Otherwise, the purity within the Muslim is always maintained.

The writer is then compelled to address the reality that the issue of keeping dogs within the home transcends beyond the issue of impurity. It has a spiritual dimension. The Messenger of Allah (Sallallahu alayhi wa sallam) has said:

Whoever keeps a dog; other than the dog for guarding the crops, hunting, or guarding the livestock; loses one Qiraat of reward every day. (Bukhari and Muslim)

In another Hadith (Prophetic saying) Qiraat is described as the reward equivalent to Mount Uhud, a huge mountain outside of Madinah Munawwarah.

Yet another Hadith states:

The angels do not enter the home wherein there are pictures or dogs.

In an attempt to diminish the significance of the Hadith, the writer begins with “If a Muslim accepts this report as authentic...”. She suggests that it is a question of personal preference for Muslims to choose certain reports and reject others. In fact the very thread and theme of her article is premised on the approach that she first has her *ad hominem* view on dogs, and then goes cherry picking to the religious texts to suit her own personal conclusions. Anything that comes in the way is re-interpreted or explained away to suit her objectives. This narration appears in the following books of Hadith compilation: Bukhari, Muslim, Thirmithi, Abu Dawood, Nasa’i, Ibn Majah, Ibn Hibban, Baihaqi, Haakim, Tabrani, Ahmad, etc. It has been accepted as authentic by the authorities in the field of Hadith, and therefore there is no “if” that applies here.

The ludicrousness intensifies when the writer suggests that since we cannot receive revelation, this Hadith does not apply to us. The following quotation from Allamah Dimyari succinctly addresses this point.

The angels that do not enter the homes that have a dog or picture within them are those angels that distribute mercies and blessings; and who seek forgiveness on behalf of the Muslims. As far as the recording angels and those instructed to remove the souls at the time of death, they enter all homes. The recording angels do not leave a person under any condition, since they are ordered to write down and preserve all a person’s actions. (Hayaatul Hayawaan al Kubra)

Some angels are also deputed to inspire good thoughts into the hearts of Muslims.

If the only function of angels was to convey revelation, then the Hadith would be, in the estimation of the writer, absurd. It would imply that the Messenger of Allah (Sallallahu alayhi wa sallam) is discouraging his followers from the impossible, which is nonsensical. It is preferred that we dismiss the writer as *non compos mentis* than rather even remotely attributing absurdity to the Messenger of Allah (Sallallahu alayhi wa sallam).

The writer then resorts to the oldest trick used by modernists, the fallacious not-found-in-the-Qur'aan argument. She postulates that since there is no negative mention of dogs in the Qur'aan, therefore it is not a religious issue but a cultural one. Like one cannot expect the Constitution of a State to include every law and rule, similarly the Qur'aan does not contain every fine detail. It lays out the principles. In numerous verses we are instructed to follow the Messenger of Allah (Sallallahu alayhi wa sallam), and that is our second source of the detailed laws.

If we had to follow the not-found-in-the-Qur'aan argument, we would not be able to carry out our most basic religious duties. Where in the Qur'aan does it say that we have to perform the midday prayer, at what time, and how many rakaat (units of prayer)? The Qur'aan does not tell us how much Zakaat (compulsory charity) should be discharged. The list can go on infinitely. What the Qur'aan instructs us to do is to follow the Messenger of Allah (Sallallahu alayhi wa sallam). For Muslims, therein is our guidance, and it is here that we locate our attitude towards keeping dogs in the home, not in our culture.

The writer then resorts to utter drivel in order to dramatise her cultural thing hypothesis. She says:

Extreme concern about the uncleanness of dogs likely arose historically as Islam became more of an urban phenomenon. In medieval cities, as in modern cities in underdeveloped countries, crowding of people and animals leads to the rapid spread of disease and animal control is not a priority. A few run-ins with an aggressive or diseased animal can result in excessive caution, fear and negativity.

I have long felt badly that many Muslims fear dogs as a result of negative experiences and that they resort to confused religious reasoning to shun them.

After acknowledging that there are Prophetic reports on the topic, she still wishes to locate the source in culture and not religion. As Muslim communities urbanised, they had a few run-ins with dogs, which resulted in fear and negativity. This then germinated into “confused religious reasoning”. The poor lady is the one who is really confused.

She accepts that there are valid concerns around the purity related to dogs. Muslims are overtly concerned about issues of purity as it is a prerequisite of prayer. She then shifts the entire scenario and implies that it was solely a case of human experience. As if, so to say, there was no religious position on dogs. There existed a pure vacuum. In this vacuum, Muslims of the past had some negative experiences with dogs. The poor souls were in search for some basis on which to shun dogs. They therefore invented a religious dimension in order to give some force to their own negative human experiences. In other words, the religious dimension is a fabrication of the mind, it is a myth and an invention to

pacify human fears. The implication is that the Prophetic reports are something invented by Muslims to give credence to their inner negativity. Concerns around purity are fictions introduced by the jurists. They do not really exist. Those who attribute a religious dimension to the topic do so since they are confused.

The absurdity of her hypothesis is self manifest and does not require an in-depth analysis.

As alluded to above, the discussion goes deeper than the mere issue of dogs. The ruptures generated by this type of article penetrate far beyond the surface, and have the potential of damaging a Muslim's faith. Those brought up in Muslim homes have learnt Islam through observation. Islamic norms and practices were imbibed through experiencing practical Islam. A relatively small fraction of Islamic awareness is attributable to formal Islamic education. Such Muslim have accepted and placed faith in the generally accepted norms and practices of the religious communities in which they were brought up. The overwhelming majority of Muslims would have learnt through experience that Muslims do not, for religious reasons, keep dogs at home. They had hitherto absolute confidence in the general attitude of their religious communities.

Somebody now comes along and claims that the entire Muslim communities were wrong, were all relying on "confused religious reasoning" and were in error in giving it a religious connotation. In reality it was a cultural thing. Muslims were for over a millennium confused and without guidance. In this enlightened age we are able to trace the

real source of their attitudes. It is only now in the 15th Hijri century that we are truly guided and realised the colossal error. With a few more debates of this nature on relatively minor issues, the confidence this Muslim has in his experience of Islam through observation is shattered. His whole community has been proven wrong, and his entire Islamic experience has now been rendered spurious. The issue may be minor – the keeping of dogs – but the implications are catastrophic. My entire Muslim community, including the learned, were ignorant and mislead. We had all along taken such norms and practices for granted. From now on, nothing can be taken for granted. Everything is up for debate, even the most accepted of norms. We need to rethink the whole of Islam as we know it. It is this shattering of confidence and faith that is the most destructive consequence of this exercise aimed at reinventing Islam.

This is not to say that all communal experience must be taken to correctly represent Islam. There are certain cultural practices that have been confused with Islam. However, in this discussion we are dealing with a norm that is universal. Wherever one goes one would experience practicing Muslims abstaining from keeping dogs in the home. The writer now wishes to reverse a fourteen century old position in order to suit her whims.

It is a reality that some Muslims drink liquor, commit adultery, sodomise or abandon the compulsory prayers. As long as they accept these misdeeds to be their own personal weakness, there is hope of repentance and reformation. Salvation is dependent on acknowledgement of our

weaknesses. To some degree or the other we all sin. What is frightening is the recent trend of justifying our sins and weaknesses. Islam is being re-interpreted to suit our own fancies. Guilt is pacified by the re-invention of Islam. Herein lies our self destruction. May Allah Ta'ala save one and all.

What do I do about my sickness?

Q: Can you please send me a wazīfah or zikr to get rid of my kidney infection.

Since a few days, I have pain in my back. I have shown it to many doctors but the treatment is slow. Can you please give me any suggestion on what I should do.

A: We make duā to Allāh Ta'ālā that He grant you complete cure. Amīn.

Allāh Ta'ālā created the human race physically weak. Allāh Ta'ālā says in the Glorious Qurān:

“And man has been created weak”

(Qurān 4:28)

Amongst the signs of man's weakness is his susceptibility to sickness. There are many trivial factors rotating around our life that cause us to become sick. Sometimes a slight change in the weather pattern causes us to remain bedridden for days. At times, the food we consume disrupts our digestive system, resulting in unbearable pain.

It is through the wisdom of Allāh Ta'ālā that we are afflicted with sickness. Allāh Ta'ālā wants us to realize and understand our helplessness and our dependency on Him. When our sight is directed towards the grandeur of Almighty Allāh and towards our own feebleness, we attain the Ma'rifah and recognition of Almighty Allāh, which is a necessary ingredient for true success. Hence, our illnesses are signs that Allāh Ta'ālā intends good for us.

Nabī Sallallāhu Alaihi Wa Sallam has stated:²³⁷

“When Allāh intends good for someone then He afflicts him.”

*(Sabih Al-Bukhārī, Hadīth No. 5645,
Dār Tanq An-Najāh)*

Furthermore, sickness is a means of clearing ones slate in the court of Almighty Allāh. Man is prone to sin. Hence, Allāh Ta'ālā through His Mercy has organized a natural purifier for the dirt accumulated by committing sins.

Nabī Sallallāhu Alaihi Wa Sallam has said:

“Allāh Ta'ālā forgives a Muslim in lieu of every calamity that afflicts him even though he is pricked by a thorn.”

²³⁷ حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ، أَخْبَرَنَا مَالِكٌ، عَنْ مُحَمَّدِ بْنِ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي صَعْصَعَةَ، أَنَّهُ قَالَ: سَمِعْتُ سَعِيدَ بْنَ يَسَارٍ أبا الحُبَابِ، يَقُولُ: سَمِعْتُ أَبَا هُرَيْرَةَ، يَقُولُ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ يُرِدِ اللَّهُ بِهِ خَيْرًا يُصِبْ مِنْهُ» (صحيح البخاري، رقم الحديث ٥٦٤٥: دار طوق النجاة)

(*Sahīh Al-Bukhārī, Hadith No. 5640: Dār Tanq An-Najāh*)²³⁸

Therefore we come to understand that every aspect of a believer's life is fruitful, whether he is the target of Allāh's bounties or he is afflicted by pain and sickness.

Nabī Sallallāhu Alaihi Wa Sallam has stated:

“How strange is the condition of a believer. All of his affairs are fruitful. And this state is only for a believer. If he is put in a good situation he is grateful and this is good for him. And if he is troubled, then he is patient, and that is good for him.”

(*Muslim, Hadith No. 2999: Dār Ihyā At-Turāth Al-Arabī*)²³⁹

Furthermore, when an individual becomes sick, the most vital point of focus is that the belief in the heart remains correct. The attention should be directed towards Allāh Ta'ālā that He is the only one who can cure.

²³⁸ حَدَّثَنَا أَبُو الْيَمَانِ الْحَكَمُ بْنُ نَافِعٍ، أَخْبَرَنَا شُعَيْبٌ، عَنِ الزُّهْرِيِّ، قَالَ: أَخْبَرَنِي عُزُوءُ بْنُ الزُّبَيْرِ، أَنَّ غَائِثَةَ رَضِيَ اللَّهُ عَنْهَا، زَوْجَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، قَالَتْ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَا مِنْ مُصِيبَةٍ تُصِيبُ الْمُسْلِمَ إِلَّا كَفَّرَ اللَّهُ بِهَا عَنْهُ، حَتَّى الشُّوْكَةُ يُشَاكُّهَا» (صحيح البخاري، رقم الحديث: دار طوق النجاة)

²³⁹ حَدَّثَنَا هَدَّابُ بْنُ خَالِدٍ الْأَزْدِيُّ، وَشَيْبَانُ بْنُ فَرُّوخَ، جَمِيعًا عَنْ سُلَيْمَانَ بْنِ الْمُغِيرَةِ - وَاللَّفْظُ لَشَيْبَانَ - حَدَّثَنَا سُلَيْمَانُ، حَدَّثَنَا ثَابِتٌ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى، عَنْ صُهَيْبٍ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «عَجَبًا لِأَمْرِ الْمُؤْمِنِ، إِنَّ أَمْرَهُ كُلَّهُ خَيْرٌ، وَلَيْسَ ذَلِكَ لِأَحَدٍ إِلَّا لِلْمُؤْمِنِ، إِنْ أَصَابَتْهُ سَرَّاءٌ شَكَرَ، فَكَانَ خَيْرًا لَهُ، وَإِنْ أَصَابَتْهُ ضَرَاءٌ، صَبَرَ فَكَانَ خَيْرًا لَهُ» (مسلم، رقم الحديث 2999: دار احياء التراث العربي)

The statement of Ibrāhīm Alaihiṣṣalām when inviting his father towards Allāh Ta'ālā is a sufficing advise for us. In the Qurān it is stated:

وَإِذَا مَرَضْتُ فَهُوَ يَشْفِينِ (سورة الشعراء, آية ٨٠)

When I become sick, Allāh is the One who cures me.

(Qurān 26:80)

With regards to a wazīfah, make it a habit of reciting the Duā that was recited by Sayidunā Ayūb Alaihiṣṣalām when he was afflicted with sickness. The Dua is mentioned in the Glorious Qurān:

رَبِّ اِنِّى مَسْنِي الضَّرَّ وَانْتَ اَرْحَمُ الرَّاحِمِينَ (سورة الانبياء, آية ٨٣)

O my sustainer, pain has afflicted me and You are the most merciful.

(Qurān 21:83)

Rabbe annī massanī adh-dhurru wa anta arhamur rāhmīn

Furthermore, it was the noble practice of Nabī Sallallāhu Alaihi Wa Sallam that whenever he would experience pain, he would recite Surah Al-Falaq and Surah An-Nās, blow on his hands and rub over his body. ²⁴⁰ Insha Allah, through the adherence of this Sunnah, Allah will give you relief and cure.

^{٢٤٠} حَدَّثَنِي جَبَّالٌ، أَخْبَرَنَا عَبْدُ اللَّهِ، أَخْبَرَنَا يُونُسُ، عَنِ ابْنِ شِهَابٍ، قَالَ: أَخْبَرَنِي عُزُورَةُ، أَنَّ عَائِشَةَ، رَضِيَ اللَّهُ عَنْهَا، أَخْبَرَتْهُ: «أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ إِذَا اشْتَكَى نَفَثَ عَلَى نَفْسِهِ بِالْمُعَوِّذَاتِ، وَمَسَحَ عَنْهُ بِيَدِهِ، فَلَمَّا اشْتَكَى وَجَعَهُ الَّذِي تُؤْفِي فِيهِ، طَفَفْتُ أَنَفْتُ عَلَى نَفْسِهِ بِالْمُعَوِّذَاتِ الَّتِي كَانَ يَنْفِثُ، وَأَمْسَحَ بِيَدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْهُ» (صحيح البخاري, رقم الحديث ٤٤٣٩: دار طوق النجاة)

Along with these wazīfas, continue to consult an expert physician and adhere to his advice.

The visit of Hadhrat Maulana Ibrahim Pandor Sahib (daamat barakatuhum)

Alhamdulillah, the Darul Iftaa was blessed with the visit of Hadhrat Maulana Ibrahim Pandor Sahib (daamat barakatuhum) on Monday 26th December 2011. Hadhrat was accompanied with his associates. Hadhrat is the from amongst the most senior khulafaa (successors) of Hadhrat Mufti Mahmood al-Hasan Gangohi rahimahullah. Hadhrat Maulana (daamat barakatuhum) is from the awliyaa of Allah. He was in the service of Hadhrat Mufti Mahmood al-Hasan Gangohi rahimahullah for over 20 years. He is a master is the science of tazkiyyah. Hadhrat Maulana's visit at the Darul Iftaa was unexpected but was very fruitful and productive.

A question had come on the Dar al-mahmood website asking whether tasawwuf is a bid'ah or not. (Dar al-Mahmood is a website which fields questions and answers on sulook and tazkiyah). Hadhrat Mufti Ebrahim Desai Sahib (Daamat barakaatuhum) had answered the question. He then read aloud the answer in the presence of Hadhrat for Hadhrat to do islaah (rectify) of the answer and to seek the barakah from Hadhrat Maulana Ibrahim Sahib. This was also the practice in the majlis of Hadhrat Mufti

Mahmood al-Hasan Gangohi rahimahullah. His students would come and read their answers on tazkiyyah related issues for correction. Hadhrat Mufti Ebrahim Desai Sahib (daamat barakatuhum) emulating the practice of these illustrious personalities, read his answer unto Hadhrat Maulana Ibrahim Sahib (daamat barakatuhum). The answer is as follows:

The thought that tasawwuf is bi'dah could be due to several reasons. It is possible that some people conduct certain practices against shari'ah in the name of tasawwuf that are obviously wrong. If your father believes that tasawwuf is bidah due to this reason, then he is correct.

The reality of tasawwuf is Tazkiyya (purification) of one's naf's.

We are created from sand, water, fire and air. Each one of these elements reflects a certain character in a person.

Anger is the reflection of fire in a person. Humbleness is the reflection of the sand in person. Water reflex's itself through a person's intelligence. Arrogance is the outcome of the air in person.

In tazkiyya, the focus is to bring a balance in all natural instincts. The purpose is not to eliminate the natural instincts.

Anger and pride are natural. Arrogance and humbleness are also natural instincts. In tazkiyya, the focus is on controlling the natural instincts and avoiding every instinct form exceeding moderation.

Excessive anger is bad. To be humble is praiseworthy. However at times it is inappropriate. All other evils of the nafs flow from these evils.

Tazkiyya of the nafs is one of the missions of Rasulullah (s.a.w).

Allah says,

هُوَ الَّذِي بَعَثَ فِي الْأُمِّيِّينَ رَسُولًا مِنْهُمْ يَتْلُو عَلَيْهِمْ آيَاتِهِ وَيُزَكِّيهِمْ وَيُعَلِّمُهُمُ الْكِتَابَ وَالْحِكْمَةَ وَإِنْ كَانُوا مِنْ قَبْلُ لَفِي ضَلَالٍ مُبِينٍ (سورة الجمعة ٢)

“It is He who has sent among the unlettered a Messenger from themselves reciting to them His verses and purifying them and teaching them the Book and wisdom - although they were before in clear error.”

When a person does not concentrate in rectifying his soul, he feels uneasy within himself. His family life is in chaos. He has marital problems. His children are disobedient to him. His social life is a burden for him. To a large extent, if one honestly examines himself, he will conclude that he is the problem.

He did not contain his nafs. His problems are the consequences of his nafs. Had he controlled his nafs, the position would be different.

Everyone knows when he is following his nafs. Allah has given everyone an ultra sense to determine that. If one examines his challenges in life honestly, he will conclude that he brought his problems upon himself.

Allah says:

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيُذِيقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ (سورة الروم ٤١)

Corruption has appeared throughout the land and sea by [reason of] what the hands of people have earned so He may let them taste part of [the consequence of] what they have done that perhaps they will return [to righteousness].

If one is able to purify his nafs himself well and good. If one cannot do so, he should seek the assistance from a spiritual doctor.

If one is physically sick, he consults a doctor. Similarly; a spiritually ill person should also consult a spiritual doctor to cure his spiritual sickness. If one denies this, his condition will worsen.

A spiritual guide who has undergone spiritual training under a sheikh kamil will apply his skills and expertise in curing one from his spiritual diseases.

A spiritual guide adheres to shariah and the Sunnah and all aspects of shariah. When one sits in his company or hear his talks or listens to his zikr, he feels spiritual enlightenment in his heart. The above is a brief explanation on the philosophy of tasawwuf.

Mufti Sahib asked Maulana Ibrahim Pandor Sahib (daamat barakatuhum) to add to the discussion. He said:

Tasawwuf also comprises of fulfilling the rights of others. By fulfilling the rights of others, it creates a balance. To be conscious of fulfilling the rights is very

important. This will impact husband-wife, employer-employee and seller-purchaser relationship.

One person was addicted to drinking alcohol. He would come home every night drunk. His wife would take him straight to his room and put him to sleep. If anybody came to the house, the wife would say the husband is sleeping. She never disclosed his fault to anybody. The whole night she would make dua to Allah that He grants her husband guidance and hidaayah. A time came when Haji Padia (a famous worker in the effort of da'wat and tabligh) when to his house in gusht and took him. The man disclosed his weakness to Haji Padia rahimahullah. Haji Padia rahimahullah replied,

“We will be in the masjid, you cannot do these things there. If you need to go and drink, don't worry, my car is outside in the car park, you can go there and fulfil your need nobody will come to know.”

So this person came the next day to the masjid. He sat in the talk and listened attentively. After that his heart just changed. He did tawbah and performed his missed salaah, gave his outstanding Zakaat and fasts.

So one means of rectification in marital disputes is for the spouse to make dua for the other spouse. Talaq should never be promoted. It is the most disliked of acts from the permissible acts.

Hadhrat Maulana then gave the following advices:

A student who qualifies from a madrasah has two desires: Iftaa or marriage. The paramount thing is nibaah; we know how to fulfil each others rights. If we have this, then everything will be ok.

The community look up at Muftis. If the Muftis' conducts are well, the community will be well. Once Imam Abu Hanifah rahimahullah was once walking in a slippery path, where a little was slipping and falling down. Imam Abu Hanifah rahimahullah went to help her, so the little girl said to him,

“Do not worry about me. If I slip, I will get hurt, if you slip the whole ummah will slip.”

Our Hadhrat (Mufti Mahmood al-Hasan rahimahullah) had alot of foresight. When somebody would come to ask a question, he already knew what was the driving force behind it. He would have the answer ever ready.

Once a person came to Hadhrat and said he was not comfortable with the imam's actions so he stopped performing salaah in the masjid. He repeated his question again and again. Hadhrat responded,

“Review your imaan, think which sin has caused you to be distanced you from the masjid?”

This was a summary of what Hadhrat Maulana Ibrahim Pandor Sahib (daamat barakatuhum) said. Allah give us the ability to practice upon what Hadhrat said. Ameen.

Sub-leasing and going against a lease agreement

Q: I am an Attorney. In South African law the word “usufruct” has a very specific connotation and is used in the law of succession to mean “the fruits” from a property or item bequeathed to an heir with the “usufructuary” being entitled to such “fruits” e.g. rental from a property or the harvest from a farm. ‘Habitatio refers to the right to occupy immovable property of the deceased. These terms are not used in relation to Landlord and Tenant. A tenant is entitled to “occupy” immovable property or to take “possession” and “use” of movable items in terms of the relevant Lease or Hire Agreement.

Please elaborate on:

1. How should a tenant be dealt with in the event of a breach of the lease?
2. Is the tenant entitled to sublet the premises?
3. Is the tenant entitled to cede the lease to a 3rd party?

A: We take note of the legal consideration of the word “usufruct” and “habitatatio”. We also observe the redundancy in your definition... the fruits from a property... being entitled to such fruits. Our use of the word is in the broad literal context. See for reference:

<http://dictionary.reference.com/browse/usufruct>

<http://www.businessdictionary.com/definition/usufruct.html>

1. If the lessee contravenes any term of the agreement, the lessor has the right to terminate the lease contract, but no monetary penalty may be due on him.²⁴¹
2. The Tenant is entitled to sub-lease the premises except if the Land lord expressly mentions otherwise.
3. The Tenant is entitled to cede the lease to a 3rd party, but if the leased asset is used differently by different users, the lessee cannot sub-lease the leased asset except with the express permission of the lessor. If the lessor permits the lessee for subleasing, he may sub-lease it.²⁴²

NOTE: in point 2 and 3, if the rent claimed from the sub-lessee is equal or less than the rent payable to the owner/original lessor, all the recognized schools of Islamic

^{٢٤١} وحكم أحير الوند أنه أمين في قولهم جميعا حتى أن ما هلك من عمله لا ضمان عليه فيه إلا إذا خالف فيه والخلاف أن يأمره بعمل فيعمل غيره فيضمن ما تولد منه حينئذ هكذا في شرح الطحاوي (الفتاوى الهندية - ج ٤ - ص ٥٠٠ - مكتبة رشيدية)

فأما إذا أفسد بأن خالف في صفة ما أمر به ذكر أن صاحب الجلد بالخيار إن شاء ترك الخف عليه وضمنه قيمة جلده ، وإن شاء أخذ الخف وأعطاه الأجر فإن ترك الخف عليه وضمنه فلا أجر عليه ، وإن أخذ الخف فإنه يعطيه أجر مثل عمله في خرز الخف غير منعل (الفتاوى الهندية - ج ٤ - ص ٥١٩ - مكتبة رشيدية)

^{٢٤٢} وَيَجُوزُ اسْتِئْجَارُ النَّوَائِبِ لِلرُّكُوبِ ، وَالْحَمْلِ فَإِنْ أَطْلَقَ الرُّكُوبَ جَازَ لَهُ أَنْ يُرَكِّبَهَا مِنْ شَاءَ وَكَذَا إِذَا اسْتَأْجَرَ ثَوْبًا لِلْبَيْسِ وَأَطْلَقَ ، فَإِنْ قَالَ : عَلَى أَنْ يُرَكِّبَهَا فُلَانٌ ، أَوْ يَلْبَسَ الثَّوْبَ فُلَانٌ فَأَرْكَبَهَا غَيْرُهُ ، أَوْ أَلْبَسَ الثَّوْبَ غَيْرُهُ كَانَ صَاحِبًا إِنْ عَطِثَتِ الدَّابَّةُ ، أَوْ تَلَفَ الثَّوْبُ ، وَكَذَلِكَ كُلُّ مَا يَخْتَلِفُ بِاخْتِلَافِ الْمُسْتَعْمِلِ فَأَمَّا الْعَقَارُ وَمَا لَا يَخْتَلِفُ بِاخْتِلَافِ الْمُسْتَعْمِلِ فَإِذَا شَرَطَ فِيهِ سَاكِنًا فَلَهُ أَنْ يُسْكِنَ غَيْرَهُ ، فَإِنْ سَمِيَ قَدْرًا ، أَوْ نَوْعًا يَحْمِلُهُ عَلَى الدَّابَّةِ مِثْلُ أَنْ يَقُولَ خَمْسَةُ أَفْفَازَةٍ حِطَّةً فَلَهُ أَنْ يَحْمِلَ مَا هُوَ مِثْلُ الْحِطَّةِ فِي الصَّرَرِ أَوْ أَقْلُ كَالشَّعِيرِ وَالْيَمِيمِ (مختصر القدوري - ص ٣٧٥ - إدارة القرآن و العلوم الإسلامية)

jurisprudence are unanimous on the permissibility of the sub-lease. However, the opinions are different in case the rent charged from the sub-lessee is higher than the rent payable to the owner. Imam Abu Hanifah is of the view that the surplus received from the sub-lessee in this case is not permissible for the sub-lessor to keep and he will have to give the surplus in charity. However, if the sub-lessor has developed the leased property by adding something to it or has rented it in a currency different from the currency in which he himself pays rent to the owner/the original lessor, he can claim a higher rent from his sub-lessee and can enjoy the surplus.²⁴³

Greeting "Merry Christmas"

^{٢٤٣}الباب السابع في إجارة المستأجر الأصل عندنا أن المستأجر يملك الإجارة فيما لا يتفاوت الناس في الانتفاع به . كذا في المحيط . ومن استأجر شيئاً فإن كان منقولاً فإنه لا يجوز له أن يؤاجره قبل القبض ، وإن كان غير منقول فأراد أن يؤاجره قبل القبض فعند أبي حنيفة وأبي يوسف رحمهما الله تعالى - يجوز وعند محمد رحمه الله تعالى لا يجوز كما في البيع وقيل إنه في الإجارة لا يجوز بالاتفاق وفي البيع اختلاف هكذا في شرح الطحاوي . وإذا استأجر داراً وقبضها ثم آجرها فإنه يجوز إن آجرها بمثل ما استأجرها أو أقل ، وإن آجرها بأكثر مما استأجرها فهي جائزة أيضاً إلا إنه إن كانت الأجرة الثانية من جنس الأجرة الأولى فإن الزيادة لا تطيب له ويتصدق بها ، وإن كانت من خلاف جنسها طابت له الزيادة ولو زاد في الدار زيادة كما لو وتد فيها وتد أو حفر فيها بئراً أو طيناً أو أصلح أبوابها أو شيئاً من حوائطها طابت له الزيادة (الفتاوى الهندية- ج ٤ - ص ٤٢٥ - مكتبة رشيدية)
(احسن الفتاوى - ج ٧ - ص ٣٠٢ - إيج ايم سعيد)

Q: Is it permissible for Muslims to greet/wish their christian neighbours, colleagues, etc. on Christmas day? e.g “ have a good day; enjoy your day” without mentioning Christmas.

A: It is not permissible to greet nor wish ones Christian neighbours or colleagues well on Christmas day whether one had mentioned the actual festivity, “Happy Christmas” or not as it is automatically understood from the context that the festivity is of “Happy Christmas”.

The Fuqahaa (Jurists) have stated that there is a fear of one losing his Eemaan if one wishes the adherents of other faiths well in their festivities as that is an expression of complacency towards Kufr.

Displaying good character to non- Muslims does not mean one should compromise in his Islamic values.

"Happy New Year!"

Pre-Historic Calendar

The New Year is one of the oldest festivals of the world, dating back to the pre historic era. The New Year History itself forms an extensive area of study. The history of New Year has undergone a series of changes over the ages to achieve its global form. The urge of celebrating New Year as a vibrant festivity emerged at the dawn of civilization.

At present, New Year is celebrated on January 1 and it had been an essential part of the cultural and traditional practices of the different communities inhabiting the world. The wide spread acceptance of January 1 as the New Year is confined only within the past four hundred years. Therefore, this is the principal reason that the New Year traditions vary from country to country.

The earliest instance of New Year is found in Mesopotamian culture. It was about 2000 BC, when the people of Babylon used to observe New Year celebrations on the day of the Vernal Equinox that is during the middle of March. It was the Romans, who recognized March 1, 153 B.C as New Year Day in their calendar. Prior to that March 25, the date of the vernal equinox, was celebrated as their New Year's Day. And this was considered to be the beginning of New Year by most Christian European countries during the early medieval era.

At that time there were only ten calendar months beginning from March. The relevance of this fact can still be seen in the names of some months, which were set according to their respective sequences in the calendar. As in the calendar of the present time, the months from September to December are placed as the ninth, tenth, eleventh and twelfth months respectively, previously they were positioned as the seventh, eighth, ninth and the tenth months. In Latin, 'Septem' means, seven, 'Octo' means, eight, 'Novem' means, ninth and 'Decem' means ten.

New Year

The Israeli term for New Year's night celebrations, "Sylvester," was the name of the "Saint" and the Roman Pope who reigned during the Council of Nicaea (325 C.E.). The year before the Council of Nicaea convened, Sylvester convinced Constantine to prohibit Jews from living in Jerusalem. At the Council of Nicaea, Sylvester arranged for the passage of a host of viciously anti-Semitic legislation. All Catholic "Saints" are awarded a day on which Christians celebrate and pay tribute to that Saint's memory. December 31 is Saint Sylvester Day - hence celebrations on the night of December 31 are dedicated to Sylvester's memory.

It was in the Gregorian calendar established by Pope Gregory XII that the New Year was firmly positioned on January 1. It was readily accepted by the Catholics and then by the Protestants and soon became a holiday recognized by the entire world slowly and steadily.²⁴⁴

Advice:

It is apparent from the history of New Year that it is traced back to the beliefs of the pagans and their gods and Christian motivations. A muslim is sensitive to his Iman. He is averse to anything that is contrary to his

²⁴⁴ <http://www.infoplease.com/spot/newyearhistory.html>
<http://www.theholidayspot.com/newyear/history.htm>
<http://www.123newyear.com/history/>
http://www.goalsguy.com/events/n_facts.html

Iman. Celebrating New Year of the Gregorian calendar has its roots in shirk and Christianity. It is therefore not permissible for a muslim to celebrate New Year or wish others Happy New Year. Furthermore, it is a norm for people to celebrate the end of the year and welcome the New Year through music, dancing wining etc. It does not behold a muslim to be in such an environment especially when celebrating New Year has its roots in kufr and shirk. For us as muslims, we are in the month of Safar, the second month of the lunar calendar 1433H. The 31st of December or the 1st of January is just another day of our lives. We should guard and protect ourselves from the influences of kufr, shirk and sins.

Sleeping partnership

Q: I and a friend (another Muslim brother) in partnership are currently conducting business with a person. He can be regarded as the franchisor andus the franchisee.

From the outset he (franchisor) was aware of the fact thatI will be the so-called sleeping partner in that I would not be running thebusiness but would be responsible for the administration (payments tosuppliers, banking, etc) thereof, so much so that when huge capital amountswere initially outlaid the 'franchisor' contacted me for these payments,etc.

Prior to the opening of this business, when renovations, etc wereundertaken, my business partner was liaised with. After the commencement ofour business, unfortunately, my

business partner, according to the 'franchisor' is not competent to run this business. However, I have no doubt in my partner's ability to successfully run this business. A meeting was held between the three of us and the 'franchisor' rather rudely suggested that if it means that I must run the business then so be it (I must run the business).

I explained to him that I am a sleeping partner meaning that my duties are the administration (payments to suppliers, banking, payments of wages/ salaries, etc.) of this business. I mean each one of us two has defined roles to play in this business. To the extent that I told the 'franchisor' that for payments you must contact me but if you have a complaint as far as the successful running of the business is concerned, he ('franchisor') needs to talk to my partner. But I have no problem him ('franchisor') having a meeting with both of us (partners) to discuss his unhappiness regarding any component of our business (running of it or the admin part of it).

Unfortunately he (franchisor) stopped liaising with me but now liaises with my partner, to the extent that he tells my business partner to convey to me what amounts are to be paid and to whom it must be paid and by when it must be paid. I don't have a problem with him liaising with my partner for my partner's role in the business (as explained above – the running of the business, ordering of stock, stock levels) but I don't think it is correct for him to convey messages to me via my partner for my role in the business.

I find this very, very unfair. I humbly request Mufti Saheb to clarify as to what is correct and to advise.

A: A sleeping partner in a Musharakah (joint venture) is he who merely makes a capital contribution and expects a profit on his capital contribution. He does not take part in any aspect of the business, whether it is the running of the business or merely doing finance administration. In your case, you are an active partner as you are tasked with administrating the finance. You are thus an active partner. You are not a sleeping partner.

The implication of being an active partner is he could take a profit percentage more than his percentage of capital contribution if that was mutually agreed upon. In the case of a sleeping partner, the profit percentage cannot exceed the percentage of the capital contribution.

If there was an arrangement that the franchisor was to communicate with you regarding payment and he does not keep to that, you should address this with your partner and advise him to direct the franchisor to you. Explain him you will be more comfortable if the franchisor communicates with you directly regarding your responsibilities.²⁴⁵

²⁴⁵ (الفصل الثالث في شركة العنان) تنعقد على الوكالة دون الكفالة وهي أن يشترك اثنان في نوع بئر أو طعماً، أو يشتركا في عموم التجارات ولا يذكر الكفالة ويصح التفاضل في المال للحاجة، ويصح أن يتساوتا في المال ويتفاضلا في الربح، ويجوز أن يعقدها كل واحد منهما ببعض ماله دون البعض، ولا تصح إلا بما تصح به المفاوضة، وما اشتراه أحدهما للشركة طوّل بتمه دون الآخر ثم يرجع على شريكه بحصته إن أدى من مال نفسه، فإن كان لا يعرف ذلك إلا بقوله فعلينه الحجة وإذا هلك مال الشركة، أو أخذ المالكين قبل أن يشترتا شيئاً بطلت الشركة وأيهما هلك هلك من مال صاحبه إن هلك في يد صاحبه فظاهر، وكذلك إن كان في يد الآخر؛ لأنه أمانة في يده بخلاف ما بعد الخلط حيث يهلك على الشركة (جمع الضمانات - ج ٢ - ص ٦٣٩ - دار السلام)

Free thinking vs Correct analogy in Shariah

Q: I am deeply concerned with the advice given to fellow Muslims about talaq. A lot of questions state that the husband said talaq thrice in anger and the answer given was is that the marriage is over. Talaq is a very sensitive issue and a simple yes or no answer is not enough. Many scholars have different opinions about this and this should be mentioned to all the people who ask talaq questions and all the Ahadith and Aayaat should be mentioned, not just a few that support the student/ mufti's opinion.

I have researched enough to find out that Allah does not take thoughtless oaths seriously and talaq is also considered an oath. Also, everyone gets angry, and when this happens, words and reasoning can't be taken seriously as anger makes people insane to extreme levels. So talaq given in anger is a thoughtless and insane oath. Also, many scholars mentioned a Hadith from Hazrat Abu Bakr *radhiallahu anhu* stating that talaq given thrice at any one time is counted as one talaq.

My personal opinion is that if a person is not sane, then how can the talaq from such a person in that state be taken seriously! I feel it is common sense. Allah hates divorce and it cannot be that easy to get done. Majority of people say things in anger and if everyone took these words seriously, we would not have families or a society etc.

A: We have analyzed your email and understand that you are expressing your opinions rather than asking a query. While your concern for the Ummah and sincerity is appreciated, the fact of matter is that concern for the

Ummah must be addressed through the channels of Shariah; Quran, Ahādīth, Ijmā' and Qiyās.

Qiyās is the science of analogy which has its defined rules in Shariah. It is only when the rules are correctly applied that the outcome will be valid. Not all analogies are valid and accepted. Before we deconstruct **your analogy of talāq on oaths** and **anger on insanity**, we hereby present a brief to you about the rules of analogy in Shariah.

An analogy (*qiyās*) is conducted to search for a ruling about an issue which is not expressly mentioned in the Quran or Ahādīth.²⁴⁶ *Qiyās* (analogical deduction) linguistically means to evaluate and examine one thing based on another.²⁴⁷ ²⁴⁸ In the terminology of *Usūl ul fiqh*, it is applying the ruling of an *Asl* to a *Fara'*; the *Asl* refers to a known ruling and the *Fara'* refers to an unknown ruling.²⁴⁹ ²⁵⁰

In the science of analogy, the *illah* (effective cause) of the *Asl* is derived and the *Fara'* is analyzed to see if it fits all the

²⁴⁶ اصطلاحاً: إبانة حكم لحادثة ليس لها حكم من الكتاب أو السنة أو الإجماع بمثلها ثبت لها حكم بنص

أو إجماع لعلّة تجمع بينهما (المدخل إلى الفقه الإسلامي وأصوله، ص. ٨٨، جامعة آل البيت)

²⁴⁷ لغة: تقدير الشيء على مثاله، فيقال: قس الشيء بغيره، وعلى غيره، (سبيل الوصول إلى علم الأصول،

ص. ١٤٨، دار الفرقان)

²⁴⁸ لغة: مصدر قاس، فقاسه بغيره وعليه يقيسه قياساً واقتناسه قدره على مثاله فانقاس (المدخل إلى الفقه

الإسلامي وأصوله، ص. ٨٨، جامعة آل البيت)

²⁴⁹ الخاق مالم يرد في بيان حكمه نص من الكتاب أو السنة ولا الإجماع، بامر منصوص على حكمه في

أحد هذه الأصول الثلاثة لاشتراكها في علّة الحكم (الموجز في أصول الفقه، ص. ٢٤٣، دار السلام)

²⁵⁰ فَإِنَّهُ تَعْدِيَةُ الْحُكْمِ مِنَ الْأَصْلِ إِلَى الْفَرْعِ بِعِلَّةٍ مُتَّجِدَةٍ (التوضيح في حل غوامض التنقيح، ص. ١٧٩)

characteristics of the *Asl* in order to determine whether the ruling of the *Asl* can be extended to the *Fara'* or not. There are many laws that govern the science of *Qiyās*.

There are four components of *Qiyās*:

1. ***Asl*:** This is an issue proven from the Quran, Ahādīth or *Ijmaa* (consensus)
2. ***Fara'*:** This is a new issue not found in the Quran, Ahādīth or *Ijmaa*
3. ***Illah*:** The cause of the ruling of the *Asl*.
4. ***Hukm*:** The ruling given for the *Fara'* based on the *Asl* after conducting the *Qiyās*.

There are 5 conditions for a *Qiyās* to be valid.

1. **The *Qiyās* cannot oppose a *nas* (express decree)**
:

Example: Can a woman travel with a group of women based on the analogy that she can travel with a mahram? Just as she is safe with a mahram, she is also safe with other women. This analogy is invalid as the prohibition of a woman travelling without a mahram is expressly stated in the Hadīth. ²⁵¹One therefore cannot apply any analogy on a woman travelling without a mahram.

2. **The *Qiyās* should not change the ruling of anything proven from the *nas*:**

²⁵¹ لا يحل لامرأة تؤمن بالله و اليوم الآخر ان تسافر فوق ثلاثة ايام و لياليها الا و معها ابوها او زوجها او ذو محرم منها

Example: There are four body parts that must be washed during wudhu; the arms, face, head and feet. This is based on the verse of the Holy Quran.²⁵² Therefore, to analogize wudhu on tayammum and say that niyyah is also compulsory in wudhu as it is in tayammum is incorrect. This is because adding the compulsion of niyyah to wudhu will be adding on the *nas*²⁵³ which is impermissible.

3. The *Asl* should not be contrary to *Qiyās* (*Amre ta'abbudi/ khilāfe qiyās*):

Example: If a person laughs aloud in salah, both his salah and wudhu will break and he will have to perform wudhu and salah again. We can understand the salah breaking, but why does the wudhu break? This is 'contrary to *Qiyās*'- we cannot understand the reasoning behind it; but we accept it as this is the ruling mentioned in the *nas*.²⁵⁴ Now, if someone backbites or sings in salah, can we analogize these issues on laughing in salah and conclude that backbiting and singing breaks one's wudhu as well? This analogy is incorrect as the ruling of wudhu breaking due to laughing is illogical. This cannot serve as an *Asl* for the other issues.

²⁵² يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا قُمْتُمْ إِلَى الصَّلَاةِ فَاغْسِلُوا وُجُوهَكُمْ وَأَيْدِيَكُمْ إِلَى الْمَرَافِقِ وَامْسَحُوا بِرُءُوسِكُمْ وَأَرْجُلَكُمْ إِلَى الْكَعْبَيْنِ

²⁵³ يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا قُمْتُمْ إِلَى الصَّلَاةِ فَاغْسِلُوا وُجُوهَكُمْ وَأَيْدِيَكُمْ إِلَى الْمَرَافِقِ وَامْسَحُوا بِرُءُوسِكُمْ وَأَرْجُلَكُمْ إِلَى الْكَعْبَيْنِ

²⁵⁴ عَنْ مَعْبُدِ الْجُهَنِيِّ , قَالَ: كَانَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُصَلِّيُ الْغَدَاةَ فَجَاءَ رَجُلٌ أَعْمَى وَقَرِيبٌ مِنْ مُصَلَّى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَبُزُّ عَلَى رَأْسِهَا جُلَّةً , فَجَاءَ الْأَعْمَى يَمْشِي حَتَّى وَقَعَ فِيهَا , فَصَجَكَ بَعْضُ الْقَوْمِ وَهُمْ فِي الصَّلَاةِ , فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعْدَمَا قَضَى الصَّلَاةَ: مَنْ صَجَكَ مِنْكُمْ فَلْيُعِدِ الْوُضُوءَ وَلْيُعِدِ الصَّلَاةَ (سنن الدارقطني, ج. ١, ص. ٣٠٧, مؤسسة الرسالة)

4. The *illah* in the *Qiyās* should be based on a Shari ruling, not a linguistic matter:

Example: The linguistic meaning of ‘Hajj’ is to travel. To say that it is compulsory for a person to do ‘Hajj’ (go to a certain place other than Makkah...) if he has enough money and the means to go is incorrect. It is incorrect because in the light of Shariah, only the journey to Makkah in the months of Hajj with the intention of performing Hajj is called ‘Hajj’. All other journeys do not fall under Shariah’s definition of Hajj.

5. The ruling of the *Fara’* should not be mentioned in the *nusūs*²⁵⁵:

Example: Allah Ta‘ālā instructs the believers in the Holy Quran not to come close to salāh after they have drunk alcohol. For a person to use this verse to say that it is permissible to drink alcohol before salah will be incorrect because Allah has prohibited alcohol as whole in another place in the Holy Quran.

Please note that the above five conditions are general conditions. Each of the components (Asl, Fara’, Hukm and Illah) all have certain requirements and conditions that must be fulfilled.

Below is an illustration to demonstrate the correct use of Qiyās:

²⁵⁵ اصول الشاشي، ص. ٢٥٧، دار الفرفور

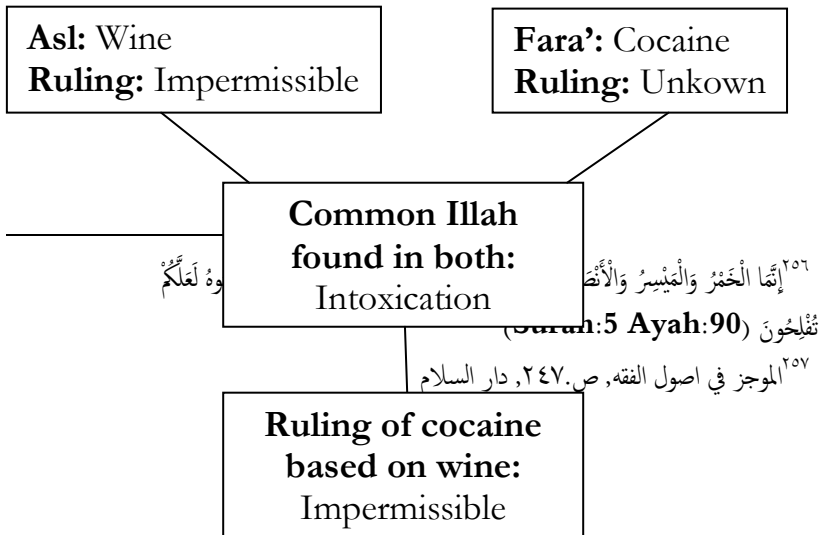
Example of *Qiyās*

Hypothetical question posed: What is the ruling for taking cocaine?

After searching through the *nusūs* (Qurān and Ahādīth), we realise that there is no explicit ruling regarding cocaine. We now need to deduce the ruling of cocaine in Shariah. We analyze some of the characteristics of cocaine to determine the closest example of it in Shariah.

Further research into the issue shows us that one of the characteristics of cocaine is that it intoxicates. This characteristic is also found in wine which is proven to be impermissible from the *nusūs*²⁵⁶.

So... The jurists take the ruling of wine (impermissibility) and apply it to cocaine.²⁵⁷



The above is just a basic example of *qiyās*. You have unfortunately analogized talaq with a thoughtless oath and given talaq the same ruling as a thoughtless oath. This analogy is incorrect as the analogy violates the first condition of *Qiyās*; there are *nusūs* about talaq^{258 259 260} therefore *Qiyās* cannot be conducted.²⁶¹

^{٢٥٨} عَنْ مُحَمَّدِ بْنِ لَبِيدٍ، قَالَ: أَخْبَرَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ ثَلَاثَ تَطْلِيلَاتٍ جَمِيعًا، فَقَامَ غَضْبَانًا ثُمَّ قَالَ: أُلْعَبُ بِكِتَابِ اللَّهِ وَأَنَا نَيِّنٌ أَظْهَرُكُمْ؟ (سنن النسائي، ج. ٦، ص. ١٤٢، مكتب المطبوعات الإسلامية)

^{٢٥٩} عَنْ تَافِعٍ قَالَ: قَالَ ابْنُ عُمَرَ: مَنْ طَلَّقَ امْرَأَتَهُ ثَلَاثًا، فَقَدْ عَصَى رَبَّهُ، وَبَاثَتْ مِنْهُ امْرَأَتُهُ (مصنف ابن أبي شيبة، ج. ٤، ص. ٦١، مكتبة الرشد)

^{٢٦٠} وَقَالَ اللَّيْثُ: حَدَّثَنِي تَافِعٌ، قَالَ: كَانَ ابْنُ عُمَرَ، إِذَا سُئِلَ عَمَّنْ طَلَّقَ ثَلَاثًا، قَالَ: لَوْ طَلَّقْتَ مَرَّةً أَوْ مَرَّتَيْنِ، فَإِنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَمَرَنِي بِهَذَا، فَإِنِّي طَلَّقْتُهَا ثَلَاثًا حَرَمْتُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَكَ (صحيح البخاري، ج. ٧، ص. ٤٣، دار طوق النجاة)

^{٢٦١} أَحَدُهَا أَنْ لَا يَكُونَ فِي مُقَابَلَةِ النَّصِّ (أصول الشاشي، فصل شروط صحة القياس خمسة، ص. ١٩٦، دار الكتب العلمية)

Rasulullah *sallallahu alaihi wasallam* is reported to have said:

عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: ثَلَاثٌ جَدُّهُنَّ جَدٌّ، وَهَزْلُهُنَّ جَدٌّ: الْيَكَاحُ، وَالطَّلَاقُ،
وَالرَّجْعَةُ^{٢٦٢}

Translation: Rasulullah *sallallahu alaihi wasallam* said: “There are three things which, whether undertaken seriously or in jest, are treated as serious: Marriage, divorce and taking back a wife.”

We do not understand how you came to the conclusion that talaq is a thoughtless oath; because it is not even an oath to start off with; it is a statement. Nevertheless, we assume that you are referring to *yameene laghw* ‘thoughtless oath’. There are numerous concerns and problems that emerge from this analogy.

If talaq was given the same ruling as a thoughtless oath and regarded as invalid, then we would face the same problem that the women faced in the time of Jahiliyyah. A husband could have the power issue a divorce whenever he wants to and could then revoke it saying that he didn’t mean it.

عَنْ عَائِشَةَ قَالَتْ: كَانَ النَّاسُ وَالرَّجُلُ يُطْلِقُ امْرَأَتَهُ مَا شَاءَ أَنْ يُطْلِقَهَا، وَهِيَ امْرَأَتُهُ إِذَا انْتَجَعَهَا وَهِيَ فِي الْعِدَّةِ، وَإِنْ طَلَّقَهَا مِائَةَ مَرَّةٍ أَوْ أَكْثَرَ، حَتَّى قَالَ رَجُلٌ لَامِرَأَتِهِ: وَاللَّهِ لَا أُطْلِقُكَ فَتَبِينِي مَيِّمٌ، وَلَا آوِيكَ أَبَدًا، قَالَتْ: وَكَيْفَ ذَلِكَ؟ قَالَ: أُطْلِقُكَ، فُكَلِمَا هُمْتَ عِدَّتُكَ أَنْ تَنْتَقِي رَاجِعَتُكَ، فَذَهَبَتِ الْمَرْأَةُ حَتَّى دَخَلَتْ عَلَى عَائِشَةَ فَأَخْبَرَتْهَا،

^{٢٦٢} سنن أبي داود، ج. ٢، ص. ٢٥٩، المكتبة العصرية

فَسَكَتُ عَائِشَةُ، حَتَّى جَاءَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَخْبَرْتُهُ، فَسَكَتَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، حَتَّى نَزَلَ
الْقُرْآنُ: الطَّلَاقُ مَرَّتَانِ فَإِمْسَاكٌ بِمَعْرُوفٍ أَوْ تَسْرِيحٌ بِإِحْسَانٍ^{٢٦٣}

Translation: Hazrat Aisha *radhiyallahu anha* narrates that a person would give his wife however many *talāq*'s he wished and she would still be considered his wife if he took her back into his marriage even if he divorced her a hundred times or more. Until the extent that one man told his wife "I swear that I will put you in such a situation wherein you won't separate from me and I won't approach you ever." She inquired "How do you intend to do that?" He said "I will divorce you. Then whenever your *iddah* (waiting period) is close to finishing, I will take you back into my marriage and I will constantly keep on doing this.

So this woman went to Hazrat Aisha *radhiyallahu anha* and explained the situation to her. Hazrat Aisha remained silent until Nabi *sallallahu alaihi wasallam* arrived and she informed him. Nabi *sallallahu alaihi wasallam* also remained silent and did not say anything. Then Allah revealed the verse of the Holy Qurān "*Talāq* is twice (after which one can take his wife back into his marriage). Then either keep your wife in a good manner or release her amicably."

This was a practice from the time of the days of *Jābiliyyah* (ignorance) as stated in *Tafsīr al Tabarī*.²⁶⁴ What this

^{٢٦٣} صحيح مسلم، ج. ٣، ص. ٤٨٩، مطبعة مصطفى البابي الحلبي

^{٢٦٤} ذكر من قال إن هذه الآية أنزلت لأن أهل الجاهلية وأهل الإسلام قبل نزولها لم يكن لطلاقهم نهاية تبين بالانتهاء إليها امرأته منه ما راجعها في عدتها منه، فجعل الله تعالى ذكره لذلك حداً، حرّم باتهاء الطلاق إليه على الرجل امرأته المطلقة، إلا بعد زوج، وجعلها حينئذ أملك بنفسها منه عن هشام بن

effectively means is that a husband could have control over his wife for as long as he wants.

He could just divorce her when he felt like it and stop her from marrying anyone else by taking her back into his marriage. He would make her life miserable because he would not have marital relations with her and he would not let her go. She would remain in this 'hanging' state as long as he wanted.

When the Prophet *Sallallahu alaihi wasallam* was asked about it, the above mentioned verse was revealed ordaining that a man has a maximum of two chances. If he gives her a third *talāq*, he cannot take her back. This is for the ease and consideration of the wife as much as it is for the man. On the other side, regard the *talaaq* to be valid and observe the restraint and cautiousness in men when uttering *talaaq*. This inadvertently gives respect and protection to women.

If *talaaq* is regarded as a thoughtless oath, a husband will keep on issuing divorces and he will not be sanctioned with the loss of his wife. On the other hand, the wife will be forced to live a life of suspense; she will be a wife in theory but in reality she is neither here nor there. This is the absurd conclusion that would emerge if we accepted your erroneous analogy of *talaaq* on a thoughtless oath.

عروة، عن أبيه قال: كان الرجل يطلق ما شاء ثم إن راجع امرأته قبل أن تنقضي عدتها كانت امرأته، فغضب رجل من الأنصار على امرأته، فقال لها: لا أفرئك ولا تحلين مني. قالت له: كيف؟ قال: أطلقك، حتى إذا دنا أجلك راجعتك، ثم أطلقك، فإذا دنا أجلك راجعتك. قال: فشكت ذلك إلى النبي صلى الله عليه وسلم، فأنزل الله تعالى ذكره: "الطلاق مرتان فإمساك بمعروف" الآية. (تفسير الطبري، سورة البقرة، اية ٢٢٩، مؤسسة الرسالة)

Another problem with giving talaaq the same ruling as a thoughtless oath is that a thoughtless oath has nothing to do with another person. It is limited to oneself; whereas the laws and rulings of talaaq are extended to another person; a man's wife.

An additional aspect that you have overlooked is that a 'thoughtless' oath is only one type of oath. There are two other oaths that a person **WILL** be held responsible for; *yameene ghamoos* and *yameene mun'aqidah*. However, this is not the time to delve into this because the analogy of talaaq on a thoughtless oath is flawed and erroneous from the beginning.

You have also made *Qiyās* of anger on insanity. From the principle, theoretical and academic angle, your analogy of anger on insanity is incorrect. This is because the fundamental requisite for extending a ruling from the *Asl* to the *Fara'* is that the *Asl* and *Fara'* must share a common cause (*illah muttahidah*); which is non-existent in this scenario rendering the *Qiyās* incorrect from the outset. Furthermore, there are a number of inconsistencies with this analogy. Being in the state of anger doesn't justify an act. For example, if a person shoots and kills someone out of anger, he cannot justify his murder by saying "I did it because I was angry, if I was in the right state of mind I wouldn't have pulled the trigger." The same applies for what we say with our tongues. Just because we are angry at the moment of uttering something doesn't mean the ruling won't be applied.

Insanity is when a person is mentally unstable to such an extent that he cannot distinguish or differ between fantasy and reality, between right and wrong, between good and bad. It is the result of a person being mentally deficient. Anger, on the other hand is caused by destructiveness, grandiosity, selfishness, vengeance, hurtfulness, and unjust blaming. In a marriage, it is when a spouse expresses dispassion, evasiveness and ineffectualness along with the previously mentioned things. It is when one doesn't have his priorities in the right order and acts impulsively knowing the consequences but deciding to overlook them to express ones feelings.

Aisha *radhiyallahu anha* narrates that Rasulullah *sallallahu alaihi wasallam* said:

" رُفِعَ الْقَلَمُ عَنْ ثَلَاثَةٍ: عَنِ النَّائِمِ حَتَّى يَسْتَيْقِظَ، وَعَنِ الصَّغِيرِ حَتَّى يَكْبُرَ، وَعَنِ الْمَجْنُونِ حَتَّى يَعْقِلَ ^{٢٦٥}

Translation: "The pen has been lifted from three persons; from a sleeping person until he awakes, from a young immature person until he grows up and from an insane person until he regains his sanity."

The reason (*illah*) as to why these three people are not held accountable for what they do or say is because they have no control over what they do or say. They cannot differentiate between right and wrong, between harmful and safe. The same cannot be said for an angry person. An angry person generally has full control over what he does or says; the only

^{٢٦٥} سنن ابن ماجه، ج. ١، ص. ٦٥٨، دار إحياء الكتب العربية

issue is that his anger might cause him to make rash decisions.

The point being made is that there is a fundamental difference between insanity and anger. They are not the same thing and one cannot be used interchangeably. Inevitably, the amount of anger one has differs from person to person, but Allah has given every sane person the ability to control their anger, or better still to control what they do and say when they are angry. All anger is either justified or unjustified; however one alone bears the sole responsibility of how it is expressed regardless of the cause and extent of it.

The *Fuqahā* have taken into consideration the fact that there are some people that get angry to such an extent that they do not know or have control over what they are doing or saying in this state of anger. The rulings for such a person are different from a normal person. The challenge in such a claim is to determine whether the person is indeed insane or not. The *Fuqahā* have stated that there are more than 70 categories of insanity. To fit a person into one of these and thereafter apply the ruling is no easy job.

The aforementioned rules and conditions of *Qiyās* are just the basics that a student learns in the second or third year of a six to seven year Aalim course. There are numerous other issues and conditions that must be learnt, applied and taken into consideration before *Qiyās* can be correctly implemented.

Advice

Allah Ta‘ālā states in the Holy Quran:

وَرَفَعْنَا بَعْضَهُمْ فَوْقَ بَعْضٍ دَرَجَاتٍ

“And we have raised some people above others in rank.”

(Qur’an 43/32)

Allah Ta‘ālā has bestowed different people with different qualities, abilities and virtues. Some people excel in law whereas others excel in sociology. Some are well versed in poetry whereas others are skilled surgeons and doctors. Some are professional chefs and others are professional footballers. Similarly, some people choose to study and pursue Islamic knowledge; the Quran, Ahādīth and Islamic jurisprudence and excel in their chosen field. There is no one person who can do everything.

Allah Ta‘ālā instructs us in the Holy Quran:

فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ

“And ask the people of knowledge if you do not know.”

(Qur’an 16:43)

When a person requires medical attention, he consults a physician. He cannot pretend to be a physician and treat himself. In that instance, he will remain sick and his health may deteriorate. This is something that everyone understands. Furthermore, if a competent physician diagnoses the sickness, the patient places his trust in the physician and acknowledges his expertise. Will it be correct for the patient to object to the physicians’ diagnosis? It is

understood if an equally or more highly qualified physician disagrees. That is a disagreement based on qualifications. It is an academic disagreement; which is appreciated. The disagreement of an ignorant person pretending to be qualified is not appreciated.

Similarly, in issues of religion and religious verdicts, one should be humble, honest and act responsibly.

Allah Ta'ālā states in the Holy Quran:

فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ

“And ask the people of knowledge if you do not know.”

(Qur'an 16:43)

Three points are illustrated in this verse:

1. The word فَاسْأَلُوا suggests that if he does not know, he should humble himself and acknowledge the fact that he does not know. Don't pretend to know.
2. The words إِنْ كُنْتُمْ لَا تَعْلَمُونَ suggest that one should be honest in his conclusion of not knowing.
3. The words أَهْلَ الذِّكْرِ suggest that one should act responsibly and refer to people of knowledge.

Religious verdicts are a result of following certain disciplinary rules and codes. A correct verdict is measured with the disciplinary rules applied in arriving to its conclusion. If the road travelled on (principles) is correct, the destination (verdict) will be realised. There must be consistency between the principles (*usool*), application and its

verdict. Being short of anything in this will be academic gymnastics or promiscuous interpretation.

If one is not qualified in the field of Fiqh or *Usoole Fiqh* and pretends to be qualified, that is total dishonesty and a major sin. His attitude is similar to a patient objecting to a competent physician's diagnosis, except that in the case of the patient, it is detrimental to his health. Here, it is detrimental to one's religion.

Naming children English versions of Arabic names

Q: Is it possible to name your child the English version of an Arabic name? For example, if the name is Nuh, can you name your child Noah?

A: Names of countries, cities, streets, airports, universities, and individuals are not merely named for identification purposes. Names also represent a belief of an individual or a group of people. Some of them can also represent a philosophy or some historical event.

In South Africa, names of airports and streets representing apartheid icons have been changed to names of veterans of the liberation struggle. Louis Botha Airport in Durban is now known as King Shaka International Airport. Louis Botha was an apartheid icon. King Shaka is the legendary leader of the Zulus. Jan Smuts Airport in Johannesburg is now called O.R. Tambo Airport. Many streets in Durban have been changed to the names of veterans of the

liberation movement. Some new streets are Anton Lembede Street, Xuma Street, Yusuf Dadoo Street etc.

There were many sensitivities in the renaming process. The name of one icon is removed to replace it with another. The idea was to highlight a personality and to promote the values he/she represented and fought for.

It is clear from this that naming a person is not just about naming and creating an identity. As muslims, when we name our children after the names of the prophets, Adam (*Alaihis Salam*), Nūh (*Alaihis Salam*), Yusuf (*Alaihis Salam*), Ebrahim (*Alaihis Salam*), it also serves as a reminder to uphold the values of these prophets. Keeping such names, have the potential to revolutionize a nation. When every second person is named after an illustrious prophet or an illustrious Sahābi, this will give rise to the value system of such people by studying those personalities and going deeper into what they represented. The pronunciation of a name also comes with a value system. As, muslims, we pronounce the names of prophets as Nūh, Isa, Ebrahim, Yusuf, Yahya, Mariam etc. In the Christian world, these names are pronounced as Noah, Jesus, Abraham, Joseph, John, Mary etc.

While the pronunciation of such names in Christianity represents the same personalities in Islam, the pronunciation of names according to a religion represents the value of that religion. A Christian referring to Jesus can never be the same as a muslim referring to Isa. The personalities are the same but Jesus in Christianity refers to

a part of God. This is in total variance with our belief of Tawheed.

Yahya in Islam is equivalent to John in Christianity. However, the name John conveys a strong connotation of baptism in Christianity. Likewise, all the names of the prophets in Christianity convey some value of Christianity with it.

As muslims, we preserve our Islamic values and principles. We do not subscribe or associate with anything against Islam. In naming our children with Christian pronunciation of names, it is indirectly or unconsciously accepting the Christian value which is hidden behind the pronunciation of such names.

As muslims, we should maintain the Islamic pronunciation of names to advance the Islamic value that goes with the name.

"How's a coke?!"

Q: Is it permissible to give bribe for a job? Is the salary of such an employment halal or haram? I have been trying to find a job but no one has hired me.

A: Shari'ah emphasizes on being honest, fair and truthful. Dishonesty and lies are both prohibited and resented in Shari'ah and they have also been designated as the features of hypocrisy.

Nabi *sallallāhu ‘alayhi wa sallam* enumerated the signs of a hypocrite;

“The signs of a hypocrite are three; when he speaks he lies, when he makes a promise he breaches the promise, when he is entrusted he deceives.”

Sahīh Bukhārī 1/16 ²⁶⁶

Bribery is defined as an offering in lieu of an illicit advantage and has been expressly prohibited in Shariah.²⁶⁷ Bribery is a seed by means of which society is corrupted. Where bribery is prevalent in a people one sees the effects of lawlessness. A society bereft of law and order is also bereft of stability. All of these factors would leave the inhabitants of such a society full of insecurity. Shari’ah in its absolute wisdom and foresight has afforded us divine instruction in order to protect ourselves from this destructive crime of society.

One Hadith of Nabi *sallallāhu ‘alayhi wa sallam* mentions;

“The Messenger of Allah *sallallāhu ‘alayhi wa sallam* cursed the one who offers a bribe and accepts a bribe.”

٢٦٦ "آيَةُ الْمُنَافِقِ ثَلَاثٌ: إِذَا حَدَّثَ كَذَبَ، وَإِذَا وَعَدَ أَخْلَفَ، وَإِذَا أُؤْتِمِنَ خَانَ" (البخاري ج ١ ص ١٦)

٢٦٧ { يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمٌ [النساء: ٢٩]

الترشيح أو المرشحي في الثار (التلخيص الحبير ط العلمية (١٩ / ٣))
 ثُمَّ الرِّشْوَةُ أَرْبَعَةُ أَقْسَامٍ: مِنْهَا مَا هُوَ حَرَامٌ عَلَى الْآخِذِ وَالْمُعْطِي (الدر المختار وحاشية ابن عابدين (رد المحتار) (٣٦٢ / ٥))

There are many Ahadith which warn against giving and taking bribery. We as followers of the pure and pristine religion of Islam should feel a sense of appreciation that we have been guided in all realms of our lives. This is so that we not only secure our Hereafter but simultaneously protect ourselves in this worldly life from the different destructive consequences of sins.

Bribery is clearly prohibited. However where one is a victim of oppression or is pressed to make a rightful claim and resorts to bribery as a last resort to preserve his right he is excused.^{269 270}

Back to school and madrasah- Be inspired!

Q: After the holidays, studying has become more of a burden rather than enjoyment. I lack all motivation to proceed in my studies. I am studying the Aalimah course but I have no interest or passion for seeking knowledge. Laziness, idleness and lethargy have overpowered me. How do I increase my zeal for knowledge

²⁶⁸لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الرَّاشِيَّ وَالْمُرْتَشِيَّ (الترمذي رقم الحديث ١٣٣٧)

²⁶⁹الدر المختار وحاشية ابن عابدين (رد المختار) (٥/ ٣٦٢)

الثَّالِثُ: أَخَذَ الْمَالِ لِيُسَوِّيَ أَمْرَهُ عِنْدَ السُّلْطَانِ دَفْعًا لِلضَّرَرِ أَوْ جُلْبًا لِلنَّفْعِ وَهُوَ حَرَامٌ عَلَى الْأَخِيذِ فَقَطُّ

²⁷⁰فتاوى محمودية ٤٥٦/١٨

and my ability to do good? How do I avoid negative thoughts?

A: Alhamdulillah we are very happy that you are becoming an Aalimah and are studying the Qurān, Ahādīth and Shariah. This is great blessing from Allah Ta‘ālā. He has chosen you to be the inheritor of the Ambiyā, to be a beacon of light for the Ummah and the rest of the world, to pass down this torch of knowledge to the next generation. Once you realise this, you will understand your importance and status in the sight of Allah Ta‘ālā. Rasulullah *sallallahu alaihi wasallam* is reported to have said:

“When Allah wishes to do good to someone, He bestows that person with the understanding of Deen”.²⁷¹

As with every prestigious responsibility, there are some sacrifices a person needs to make to achieve a rank amongst the greats. In the matter of studies, one must abstain from sins and transgression as much as possible. The knowledge that you are receiving is a divine and pure light from Allah Ta‘ālā. It cannot be contaminated with sins and shortcomings otherwise the light will lose its’ lustre in the eyes of the beholder and the value of this sacred knowledge will decrease. “Knowing is not enough; we must apply. Willing is not enough; we must do.” You say that you know that you are falling into the traps of Shaytān, so **DO** something about it; don’t dwell over it.

²⁷¹ سنن ابن ماجه، ج. ١، ص. ٨٠، دار إحياء الكتب العربية

Another sacrifice that must be made to attain this knowledge is that one must work hard for it. It is the pinnacle of stupidity and idiocy to think and assume that the greatest knowledge that can be bestowed upon a mortal can be attained without hard work and perseverance. When you don't feel like studying, you have to remind yourself WHY you wanted to study in the first place; to please Allah Ta'ālā and to become a good Muslim.

You have to keep in mind that a gem is not polished without rubbing, nor a man perfected without trials. All these hardships must be undertaken and borne for a person to achieve something in life and succeed. Obstacles are those frightful things you see when you take your eyes off the goal. Once you realise your goal and keep it in mind, it will motivate and spur you on to work harder. Remember, the only place success comes before work is in a dictionary. Remember you cannot plough a field by turning it over in your mind. You have to toil and exert all your forces to achieve something. Remember, the best way to make your dreams come true is to wake up.

You had this flame burning inside you once, the only thing stopping it from lighting up again is yourself. Numerous people say that they don't want to do something because they are 'depressed'. What they fail to realise is that majority of the times, this 'depression' is all in the mind. A person thinks that my parents are suffering from depression so I must also be suffering from it. We need to rid ourselves of these excuses and bring ourselves together. If a person thinks and believes he/she is depressed, it will have an effect on his/her outlook of life and the way he/she deals

with things. The same applies to a person who thinks and sincerely believes he/she is happy. However, if you genuinely feel that you are suffering from depression, you should consult your doctor or a psychiatrist and take the necessary medication. There is nothing wrong in doing so. Many professional and intelligent people also seek medical support for mental and emotional balance. Seeking help and assistance from a psychiatrist does not mean one is insane. Rather it does the opposite; it means that one is brave enough to admit his deficiencies and is brave enough to do something about it. The most important thing is that you must keep yourself happy and pray to Allah that He always keeps you happy.

Finally, there are many times in everyone's life when things don't seem to be going their way. At these junctures in life, remember the following: "Destitutus ventis, remos adhibe" (If the wind will not serve, take to the oars.) Do what you set out to do regardless of the conditions you face and the adversity you confront.

Running ones business at the time of Jumma

Q: I am a Muslim businessman. I have a store in a shopping centre that allows Muslim owned business to close for Jumu'ah. However, my shop is managed by non-Muslim females. Am I still obliged to remain closed (as it is forbidden to trade during Jumu'ah time) or can I leave my shop open and trade?

A: Allah Ta'ālā says in the Quran,

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا نُودِيَ لِلصَّلَاةِ مِنْ يَوْمِ الْجُمُعَةِ فَاسْعَوْا إِلَى ذِكْرِ اللَّهِ وَذَرُوا الْبَيْعَ ذَلِكُمْ خَيْرٌ لَكُمْ إِنْ كُنْتُمْ تَعْلَمُونَ (الجمعة ٩)

"Oh you who believe! When the call to Prayer is made on Friday, then proceed at once to the remembrance of Allah and quit all commerce. That is best for you, if only you were to know (Allah's reward for it)."

In light of the above verse, the Ulama mention that trade after the call of Jumu'ah prayer is prohibited. The verse commands that we "proceed" as soon as the call is made.

In the beginning stages of Islam there was only one athān for Jumu'ah, which was called at the time of khutbah in front of the Imam. This procedure had remained right up till the era of Umar *radiyallāhu 'anhū*.

During the era of Uthmān *radiyallāhu 'anhū*, Muslims started inhabiting the outskirts of Madinah due to their large numbers. The athān that was given in front of the Imam at the time of khutbah could not be heard by many due to the distance from the Masjid.

Uthman *radiyallāhu 'anhū* ordered that another athān be called in the trading area further from the mosque at his house in Maqām e Zaura' which would be heard though out Madinah.

This practice was unanimously accepted by all the Sahabah and has been the accepted practice of the entire Ummah till today. Trading and activities which were once prohibited after the athān in front of the Imam, were now prohibited after this first athān introduced by Uthmān *radiyallāhu ‘anhū*.²⁷²

Trade after the athān has been prohibited since it leads to delay in proceeding for Jumu’ah. If two people do a transaction after the athān whilst proceeding for Jumu’ah and the deal is not a hindrance in proceeding to Jumu’ah, such a deal is permissible. It is clear that abandoning trade upon the Jumu’ah adhaan is not the emphasis rather the emphasis is on the delay for Jumu’ah.²⁷³

If a person closes his business during the Jumu’ah salah, this would be an expression of his reverence and respect for the Jumu’ah Salah. However, closing ones’ business during Jumu’ah Salaah is not a condition for the Jumu’ah salaah.

Closing some businesses during Jumu’ah may also not be economically practical. For example, a

²⁷² Ma’ariful Quran vol.8 pg.456,

احكام القرآن للتهانوي ٦١/٥
^{٢٧٣} (قَوْلُهُ وَتَرَكَ الْبَيْعَ) أَرَادَ بِهِ كُلَّ عَمَلٍ يُتَابَعُ السَّعْيِ وَخَصَّهُ اتِّبَاعًا لِلْآيَةِ نَهْرَ (قَوْلُهُ: وَلَوْ مَعَ السَّعْيِ) صَرَّحَ فِي السِّبْرَاجِ بِعَدَمِ الْكَرَاهَةِ إِذَا لَمْ يَشْغَلْهُ بَحْرٌ وَيَنْبَغِي التَّعْوِيلُ عَلَى الْأَوَّلِ نَهْرَ.
 قُلْتُ: وَسَيَذْكَرُ الشَّارِحُ فِي آخِرِ الْبَيْعِ الْفَاسِدِ أَنَّهُ لَا بَأْسَ بِهِ لِتَغْيِيلِ النَّهْيِ بِالْإِحْلَالِ بِالسَّعْيِ فَإِذَا انْتَهَى انْتَهَى (الدر المختار وحاشية ابن عابدين (رد المحتار) (٢ / ١٦١))

Muslim owns a service station. Friday is the end of the week and it is a busy period for taxis (kombis). If one closes the service station at that time, the normal clientele will go elsewhere and not return in future. This can impact the overall turnover of the business. While we believe rizq is from Allah, we are also not required to abandon permissible means of ones rizq. If one closes his business at that time, that is his level of Taqwa but not a requirement in Shari'ah.

It would be permissible that one proceeds for Jumu'ah salaah whilst his business is administered by his non-Muslim staff. The income earned during Jumu'ah time will be halal.²⁷⁴

Zakaat on SARS refund

Q: I have received my tax refund from SARS after three years due to queries.

1. Is the lump sum received zakatable? If yes, from which date?

²⁷⁴ وَقَدْ خُصَّ مِنْهُ مَنْ لَا جُمُعَةَ عَلَيْهِ ذَكَرَهُ الْمُصَنِّفُ وَالْحَاصِلُ أَنَّ اللَّيْلَ خَصَّ مِنْ وَجُوبِ الشَّغْيِ جَمَاعَةً كَالْمَرِيضِ وَالْمُسَافِرِ (الدر المختار وحاشية ابن عابدين (رد المحتار) (١٠١ / ٥))
 بأن من لم تجب عليه الجمعة مستثنى من الحكم كما في القهستاني يعني من لم تجب عليها معاً أما إذا
 وجبت على أحدهما دون الآخر أتما جميعاً لأن الأول ارتكب النهي والثاني أعانه عليه (حاشية الطحاوي
 على مراقي الفلاح (٣٣٥) المطبعة الكبرى الأميرية)
 فتاوى رحيمة ٨٢/٦

2. Over this time interest has been paid by SARS on this lump sum and has accumulated. Can the interest received be offset against SARS tax paid?

A: Having complete ownership of assets (such as money, gold, silver, merchandise, etc.) is a requirement in order for the assets to be “Zakatable”.²⁷⁵ When you dispensed your money to the government in the form of tax, the money departed from your ownership. You had no possession of the money and you were not guaranteed a refund. Hence, you are not obliged to pay Zakāh on the refunded money for the three years you did not have possession. This lump sum received will be included in your present Zakatable assets and you will pay Zakāh on the total amount the next time Zakāh is due on you.²⁷⁶

If the interest is paid by SARS, you may use that interest amount to make future payments to SARS. This ruling is specific to the interest amount received from SARS and does not refer to any other interest amount.²⁷⁷ However, because the payments to SARS will be at a future date, the

^{٢٧٥} وَمِنْهَا الْمَلِكُ التَّامُّ وَهُوَ مَا اجْتَمَعَ فِيهِ الْمَلِكُ وَالْيَدُ وَأَمَّا إِذَا وَجَدَ الْمَلِكُ دُونَ الْيَدِ كَالصَّدَاقِ قَبْلَ الْقَبْضِ أَوْ وَجَدَ الْيَدَ دُونَ الْمَلِكِ كَمَالِكِ الْمُكَاتِبِ وَالْمَدْيُونِ لَا تَجِبُ فِيهِ الزَّكَاةُ كَذَا فِي السَّرَاجِ الْوَهَّاجِ وَأَمَّا الْمُبْعِ قَبْلَ الْقَبْضِ فَقِيلَ لَا يَكُونُ نَصَابًا وَالصَّحِيحُ أَنَّهُ يَكُونُ نَصَابًا كَذَا فِي مُحِيطِ الشَّرْحِيِّ (الفتاوى الهندية، ج ١، ص ١٧٢: مكتبه رشيدية)

^{٢٧٦} وَمَنْ كَانَ لَهُ نَصَابٌ فَلِاسْتِفَادَةٍ فِي أَثْنَاءِ الْحَوْلِ مَالًا مِنْ جَنْسِهِ صَمَهُ إِلَى مَالِهِ وَرَكَاهُ الْمُسْتَفَادُ مِنْ تَمَائِهِ أَوَّلًا وَبَآئٍ وَجْهِ اسْتِفَادَ صَمَهُ سَوَاءً كَانَ بِبِزَارٍ أَوْ هِبَةٍ أَوْ غَيْرِ ذَلِكَ. (الفتاوى الهندية، ج ١، ص ١٧٥: مكتبه رشيدية)

^{٢٧٧} فتاوى محمودية، ج ٢٤، ص ٣٤٧: مكتبه محمودية

interest money should be dispensed immediately to the poor and needy.

The merging of the oceans

Q: What is the truth regarding the merging of the oceans as in the Qura'an?

A: The phenomenon regarding the merging of the two oceans is stated in the Qura'an.

Allah (Subhanahu Wa Taa'la) says:

وهو الذى مرج البحرين هذا عذب فرات و هذا ملح اجاج و جعل بينهما برزخا و حجرا محجورا
“And He who merged together the flow of the two great waters: this one sweet, fresh to the taste; and that one salty, acrid. Yet He placed between them a seamless divide, a barrier that bars their intermingling.”
(Qur'an 25:53)

Allah (Subhanahu wa Ta'ala) says:

مرج البحرين يلتقيان بينهما برزخ لا يبغيان
“He has released the two oceans which meet together. Between them is a barrier which they never transgress”
(Qur'an 19/55)

Allah (Subhanahu wa Ta'ala) says:

و جعل بين البحرين حاجزا
“And He has placed a barrier between the two oceans”
(Qur'an 27:61)

These Aayaat(verses) are a clear manifestation and exposition of Allah(Subhanahu wa Ta'ala)'s Qudrat (power).

Allah (Subhanahu wa Ta'ala) has merged the two oceans of flowing water mentioned in the Qura'an, yet they still remain distinguished with their own unique characteristics without being mixed with each other.

If water is poured into a container already half filled with water, definitely it will be intermixed and undistinguishable from the other water. Whereas, Allah (Subhanahu wa Ta'ala) has merged two huge oceans containing millions of litres of water, yet, out of Allah (Subhanahu wa Ta'ala)'s sheer Qudrat(power), they do not intermix and become undistinguishable from each other. This is surely a sign of Allah (Subhanahu wa Ta'ala)'s greatness which no superpower of the world can prevent or stop.

The characteristics of sweet/palatable water are: warmness, higher salinity and less density than salty water. The characteristics of salty/bitter water are: coldness, lesser salinity and higher density than sweet water.

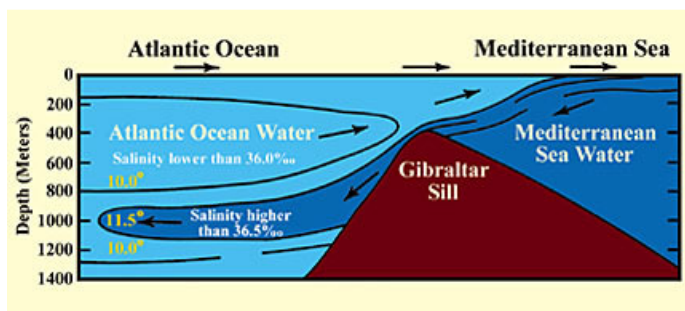
Allah (Subhanahu wa Ta'ala)'s message behind this manifestation of exaltedness and power is to show Insaan(Mankind) that he has no reason to disobey Allah (Subhanahu wa Ta'ala) as he is the ultimate supreme power of the universe.

Modern Science has discovered in the recent past, that in the places where two different seas meet, there is a barrier

between them. This barrier divides the two seas so that each sea has its own temperature, salinity and density.

For example, Mediterranean Sea water is warm, saline and less dense, compared to Atlantic Ocean water. When the Mediterranean Sea water enters the Atlantic Ocean over the Gibraltar Sill, it moves several hundred kilometres into the Atlantic Ocean at a depth of about 1000 metres with its own unique warm, saline and less dense characteristics.²⁷⁸

Scientists have provided various diagrams²⁷⁹ proving this phenomenon from a scientific point of view, Hereunder are a few diagrams clearly expressing the unique merging of the oceans as mentioned in the Qura'an:



²⁷⁸ A Brief Illustrated Guide To Understanding Islam, Ebrahim, chapter one, pg. 17, Darussalam, Houston, with the reference of: Principles of Oceanography, Davis, pp.92-93.

²⁷⁹

<http://www.freewebs.com/proofofislam/scienceinthequran.htm>, link accessed at 23/12/2011.

The above diagram shows the Mediterranean Sea water as it enters with that of the Atlantic Ocean over the Gibraltar Sill with its own unique characteristics.

The shallow Camarinal Sill of the Strait of Gibraltar, which forms the shallowest point within the strait, acts to limit mixing between the cold, less saline Atlantic water and the warm Mediterranean waters. The Camarinal Sill is located at the far western end of the strait.²⁸⁰

In terms of oceanography, a sill refers to: “A ridge, above the average bottom level in a region, which separates one basin from another, or in the case of a fjord, separates the landward basin from the sea outside.”²⁸¹

According to the Oxford Dictionary, a sill means: “an underwater ridge or rock ledge extending across the bed of a body of water.”²⁸²

²⁸⁰ http://en.wikipedia.org/wiki/Strait_of_Gibraltar, link accessed at 23/12/2011.

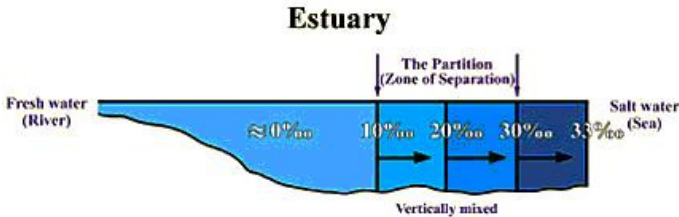
²⁸¹

[http://books.google.co.za/books?id=Chb14jomm08C&pg=PA19&lpg=PA19&dq=sill+\(oceanography\)+by&source=bl&ots=fyeITYuquh&sig=iIGkPtaEKb8VY-fm9k_grigIFbk&hl=en&sa=X&ei=W9b0TquDBcbl8QPCl6DW-AQ&sqi=2&ved=0CDIQ6AEwAg#v=onepage&q=sill%20\(oceanography\)%20by&f=false](http://books.google.co.za/books?id=Chb14jomm08C&pg=PA19&lpg=PA19&dq=sill+(oceanography)+by&source=bl&ots=fyeITYuquh&sig=iIGkPtaEKb8VY-fm9k_grigIFbk&hl=en&sa=X&ei=W9b0TquDBcbl8QPCl6DW-AQ&sqi=2&ved=0CDIQ6AEwAg#v=onepage&q=sill%20(oceanography)%20by&f=false), *ibid.*

²⁸² <http://oxforddictionaries.com/definition/sill>, *ibid.*



The above diagram indicates the merging of two oceans in which the colors of both oceans differ yet they are merged into each other.



The above diagram shows the merging of an estuary which consists of fresh/palatable water with that of an ocean which consists of salty water. The estuary is separated from the ocean with a unique zone of partition described as a “pynocline zone with a marked density discontinuity separating the two layers”. This zone of separation has a

different salinity from the water and salt water as indicated in the diagram.²⁸³

The above information has been recently discovered by oceanographers using the most advanced technology and equipment to measure temperature, salinity, density, oxygen dissolubility, e.t.c.

As Muslims, we have firm conviction in the Aayaat(verses) of the Qura'an. When scientists uncover and unearth certain phenomenon mentioned in the Qura'an, it only serves as a source of strengthening our Eemaan.

When we come across the realities of such phenomenon, we say: "Subhaanallah", which means: "Glory be to Allah".

Income from Writing articles

Q: I write articles on the internet and get paid for it. I have been using a website for promotion and in it I placed my ad for my service, but I used a stolen picture to describe my service. I got a few orders and completed them and got paid for them. Is my earning halal?

²⁸³ A Brief Illustrated Guide To Understanding Islam, Ebrahim, chapter one, pg.19, Darussalam, Houston, with the reference of: Oceanography, Gross, p. 242.Introductory Oceanography, Thurman, pp. 300-301.

I got paid for the service which I provided but I used a stolen picture in the ad which I used to obtain my orders. Also my parents bought me a laptop and internet connection. I don't know if they used halal money. I think they used credit cards or welfare money for which im not sure if we qualify for. Regardless of where they got their money is my income halal, if I use what they bought me to make money.

A: The service you render as a writer is permissible. Your income is Halaal. However, you have committed a sin advertising your work through a stolen picture. For that you should offer some charity to purify your income.

Nabi *salallāhu 'alayhi wasallam* said,

“Oh group of traders verily vanity and false oaths couple trade so offset it with charity.”

Mishkāt al Masābīh 2/851²⁸⁴

Computer Abuse

Q: I don't know how to ask this but at the same time it is important I have an issue with watching porn. The worst part about it is that I tend go down in masturbation. I feel so bad in the end and I always ask forgiveness from Allah. I always feel bad that I go on repeating the same thing once

²⁸⁴ يَا مَعْشَرَ التَّجَارِ إِنَّ الْبَيْعَ يَحْضُرُهُ اللَّعْنُ وَالْحَلْفُ فَشُوبُوهُ بِالصَّدَقَةِ

every week. I don't know what to do. I can't approach any friend with this issue because I feel bad to say it.

My other issue is that I can't stop looking at girls. I always try to keep my gaze low but I still face this issue. I would really appreciate your help. Jazakallah

A: Alhamdulillah we are pleased to know that you realise that this heinous act is a sin, and that it is something you need to stop doing. "Admitting error clears the score, and proves you wiser than before." Mistakes and sins are a fact of life and an inevitable reality. No-one is infallible, sinless or perfect bar the Prophets (*alayhimus salaam*). It is our response to this realisation that matters. Some people realise and acknowledge their shortcomings but turn a blind eye to them and overlook them. On the other hand, there are people who realise their sins and make a firm resolution not to commit them again. Rasulullah *sallallahu alaihi wasallam* says:

"The person who repents from his sins is like a sinless person."²⁸⁵

We understand from this Hadīth that once a person truly repents and sincerely asks Allah Ta'ālā for forgiveness, he should have faith and be assured that Allah Ta'ālā has forgiven him.

Tawbah is not confined to merely regretting ones sin and making a resolve to change. It is part of tawbah to adopt all

²⁸⁵ التَّائِبُ مِنَ الذَّنْبِ، كَمَنْ لَا ذَنْبَ لَهُ (سنن ابن ماجه، ج. ٢، ص. ١٤١٩، دار إحياء الكتب العربية)

practical measures to change. Stay away from all such avenues that will lead to sin. One cannot place butter in a hot pan and claim that it won't melt and one cannot touch a live wire and expect not to get shocked. Similarly, don't expect not to be drawn into evil when browsing websites containing immoral content. The real strength is in not even exploring such websites.

Practical steps to prevent oneself from masturbation

- Don't keep the laptop/ computer in your own bedroom; keep it downstairs where people can see what you are doing.
- Make a firm resolution that every time you watch pornography or masturbate, you will put X amount of money (any realistic affordable amount of money) in a box and at the end of the month I will donate it to a charity or a Masjid or to some poor people. Make sure you pay.
- Make sure you don't go on websites that may entice you and lead you to other bad websites. E.g. If you want to check the news, don't go on a website that has celebrity gossip... looking at the pictures will take you closer to the sin; rather you should use other reliable websites that don't have this type of material.
- Anytime you feel like committing looking at pornography or masturbating, close the laptop lid or switch of the computer screen, leave the room and come back and continue your work when your desires are suppressed.

- Remember to take each day as it comes. Don't think about pornography or masturbation at all and do not even read about it. The more you think about it, the more you will want to commit it.
- Try not to remain alone; have people around you at most times.
- Don't use the internet unless you need to. An idle mind is the devil's workshop, remain occupied.
- Keep your willpower; you can take any preventative measures you want, but unless you have the sincere desire and will to stop, you won't. "Whether you think you can or you think you can't...you're right."
- The final and most important thing is that one constantly makes dua to Allah the Almighty and constantly does the *dhikr* of Allah. This will keep one's mind occupied at all times. One should not despair if he commits the sin again. Remember! If your tawbah and intention is sincere, Allah will definitely give you the *taufeeq* (ability) to refrain from this sin.

As for the second issue you mentioned; gazing at women. It is all a matter of willpower and control. You have to say to yourself that I WILL stop looking at unlawful women and you must then believe in your statement and have faith in yourself. The remorse you feel after committing this sin shows that you feel guilty and want to stop. You have to realise that this sin is not limited to your youth or adulthood. Once you start looking at women, you will not stop because you will continue to see more women that fascinate you more than the previous one. As a result of this, even when you are married and later on become a

grandfather, this filthy habit of gazing at unlawful women will remain with you.

Haircuts and Hairstyles

Q: I have a few questions. Firstly, is it permissible to cut your hair in different lengths (buzz cut or fohawks), or can you shave of your sideburns and make a style on your beard, not shave it off. I am asking this because when I was younger the barber used to shave my sideburns of while giving me a haircut, but I'm almost 16 now and my sideburns are huge and I have no beard...I look like a monkey... My dad said I can't shave it off because its part of my beard and keeping a beard is [wājib?]

If you break something that is wājib, are you still a muslim and what is the punishment? Also, what is the amount you have to keep of the beard?

A: There are two parts to your question. The first is to do with the hair of the head and the second is to do with the beard. They will be discussed separately.

Haircuts

It is permissible for a male to cut his hair. This is based on the fact that there are numerous narrations which mention that Rasulullah *sallallahu alaihi wasallam* and the Sahabah *radhiallahu anhum* cut or shaved their hair. However, there are certain haircuts/ hairstyles that are impermissible.

Everyone is attracted to the latest fashion and style donned by celebrities, pop stars, sports stars and models. Everybody wants to be identified as a person who is in-sync with the times and in co-ordination with the latest trend. This ranges from the clothes such people wear to the foods they eat; and the hairstyles they don.

Hairstyles play a major part in the way a person is perceived by society. Certain hairstyles display chivalry and boyishness, whereas other styles display that a person is a business man or a serious person. Certain hairstyles link a person to a certain group, clique or organization. Other people choose to style their hair to display their personality; be it daring, carefree, lazy, adventurous, free spirited etc.

Some of these hairstyles are as follows:

- Crew cut
- Buzz cut
- Dreadlocks
- Fohawk
- Mowhawk
- Flat top
- Afro
- Spikes
- Mullet
- Pompadour
- Quiff
- Rattail
- Caesar cut
- Cornrows
- Shag
- Undercut
- Curtains
- Half ponytail
- High top fade
- Line up
- Tonsure
- Waves
- Comb over
- Emo hair
- Bangs

As Muslims we should protect our identity. Islam is our way of **life** in everything. It is not restricted to the masjid, the house or our workplace; it advises us on what we can wear and can't wear, on what we can eat and can't eat; likewise it has given us specific guidelines pertaining to our appearance.

Allah Ta'ālā states in the Holy Quran:

قُلْ إِنْ كُنْتُمْ تُحِبُّونَ اللَّهَ فَاتَّبِعُونِي يُحْبِبْكُمُ اللَّهُ وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ

“Say: (Oh Muhammad) If you love Allah then follow me and Allah will love you and He will forgive your sins.”

(Qur'an 3:31)

It was the noble habit of Rasulullah *sallallahu alaihi wasallam* to keep long hair and it has also been proven that he shaved the hair of his mubaarak head.²⁸⁶

If one doesn't want to keep long hair or a bald head, he may adopt the hairstyles of the pious people because Allah Ta'ālā states in the Holy Quran:

وَاتَّبِعْ سَبِيلَ مَنْ أَنَابَ إِلَيَّ

“And follow the way of those people who repent to me.”

(Qur'an 31:15)

Generally, there are two factors that render a haircut impermissible.

²⁸⁶ احسن الفتاوى، ج. ٨، ص. ٨١

1. قزع (Partially shaved) ²⁸⁷
2. تشبه (Imitating non- Muslims)

Qaza' is impermissible because of the following Hadīth:

عَنْ عُمَرَ بْنِ نَافِعٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: نَبَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنِ الْقَزَعِ . قَالَ: وَمَا الْقَزَعُ؟ قَالَ: أَنْ يُخْلَقَ مِنْ رَأْسِ الصَّبِيِّ مَكَانٌ وَيُتْرَكَ مَكَانٌ ^{٢٨٨}

Umar bin Nāfi' that Nāfi' narrates that Ibn Umar *radhiallahu anhum*a said: Rasulullah *sallallahu alaihi wasallam* prohibited us from *Qaza'*. Ibn Nāfi' enquired: what is *Qaza'*? He replied: "To shave one part of a child's head and leave the remaining part unshaven."

Some of the haircuts mentioned above fall under the ambit of *Qaza'* such as the: crew cut, flattop, rattail and mowhawk (when part of the head is shaved).

The second factor that renders a haircut impermissible is imitating non-muslims or fashioning ones hair according to the latest hairstyles. Rasulullah *sallallahu alaihi wasallam* said:

عَنِ ابْنِ عُمَرَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَنْ تَشَبَّهَ بِقَوْمٍ فَهُوَ مِنْهُمْ ^{٢٨٩}

^{٢٨٧} وَيُكْرَهُ الْقَزَعُ وَهُوَ أَنْ يُخْلَقَ الْبُغْصُ وَيُتْرَكَ الْبُغْصُ (رد المحتار على الدر المختار، ج.٦، ص.٤٠٧، دار الفكر)

قَالَ: وَمَا الْقَزَعُ؟ قَالَ: أَنْ يُخْلَقَ مِنْ رَأْسِ الصَّبِيِّ مَكَانٌ وَيُتْرَكَ مَكَانٌ (سنن ابن ماجه، ج.٢، ص.١٢٠١، دار إحياء الكتب العربية)

^{٢٨٨} سنن ابن ماجه، ج.٢، ص.١٢٠١، دار إحياء الكتب العربية

^{٢٨٩} سنن أبي داود، ج.٤، ص.٤٤، المكتبة العصرية

If a person's hair is uneven, it will be deemed impermissible if it resembles the fashion hairstyles of the non-believers²⁹⁰ such as footballers, pop stars, actors etc. Haircuts and hairstyles such as a mowhawk, fohawk, marine cut, tram lines, box fade, quiff, pompadour, emo cut etc. will be impermissible.²⁹¹

²⁹⁰ فتاوى رحيمة، ج. ١٠، ص. ١١٥، دار الاشاعت

²⁹¹... فالرخصة انما هي جميع شعر الرأس موجودة، وكانت الذؤابة طويلة من سائر الشعور (بذل المجهود، ج. ١٧، ص. ٨٣، دار الريان للتراث)

Other texts to take into consideration

(ق ز ع): (في الحديث) نَهَى عَنْ (الْقَرَع) هُوَ أَنْ يَخْلُقَ الرَّأْسَ وَيُتْرَكَ شَعْرٌ مُتَفَرِّقٌ فِي مَوَاضِعَ فَذَلِكَ الشَّعْرُ قَرَعٌ (وَقَرَعَ) رَأْسُهُ تَفْرِيعًا حَلَقَهُ كَذَلِكَ وَكَانَهُ مِنْ (قَرَعَ) السَّحَابُ وَهُوَ قَطَعَ مِنْهُ مُتَفَرِّقَةً صَغَارَ جَمَعَ قَرَعَةً (وَمِنْهَا) الْحَدِيثُ { كَانَتْ السَّمَاءُ كَالرُّجَاجَةِ لَيْسَتْ فِيهَا قَرَعَةٌ } . (المغرب)
قَوْلُهُ وَأَمَّا حَلْقُ رَأْسِهِ إلَخَ) وَفِي الرُّوضَةِ لِلزَّنْدَوِيسِيِّ أَنَّ السُّنَّةَ فِي شَعْرِ الرَّأْسِ إِمَّا الْفَرْقُ أَوْ الْحَلْقُ. وَذَكَرَ الطَّحَاوِيُّ: أَنَّ الْحَلْقَ سُنَّةٌ، وَنَسَبَ ذَلِكَ إِلَى الْعُلَمَاءِ الثَّلَاثَةِ، وَفِي الدَّخِيرَةِ: وَلَا بَأْسَ أَنْ يَخْلُقَ وَسَطَ رَأْسِهِ وَيُرْسِلَ شَعْرَهُ مِنْ غَيْرِ أَنْ يَقْتَلَهُ وَإِنْ قَتَلَهُ فَذَلِكَ مَكْرُوهٌ، لِأَنَّهُ يَصِيرُ مُشَبَّهًا بِبَعْضِ الْكُفَرَةِ وَالْمُجُوسِ فِي دِيَارِنَا يُرْسِلُونَ الشَّعْرَ مِنْ غَيْرِ قَتْلِ، وَلَكِنْ لَا يَخْلُقُونَ وَسَطَ الرَّأْسِ بَلْ يَجُزُّونَ النَّاصِيَةَ تَتَارُخَانِيَّةً قَالَتْ: وَيَكْرَهُ الْقَرَعُ وَهُوَ أَنْ يَخْلُقَ الْبَعْضُ وَيُتْرَكَ الْبَعْضُ قَطْعًا وَمُقْدَارَ ثَلَاثَةِ أَصَابِعَ كَذَا فِي الْغُرَائِبِ، وَفِيهَا: كَانَ بَعْضُ السَّلَافِ يَتْرَكَ سِبَالِيَهُ وَهَمَّا أَطْرَافُ الشَّوَارِبِ. (رد المحتار على الدر المختار، ج. ٦، ص. ٤٠٧، دار الفكر)

وَفِي رُوضَةِ الزَّنْدَوِيسِيِّ أَنَّ السُّنَّةَ فِي شَعْرِ الرَّأْسِ إِمَّا الْفَرْقُ وَإِمَّا الْحَلْقُ وَذَكَرَ الطَّحَاوِيُّ الْحَلْقَ سُنَّةً وَنَسَبَ ذَلِكَ إِلَى الْعُلَمَاءِ الثَّلَاثَةِ كَذَا فِي التَّتَارُخَانِيَّةِ يُسْتَحَبُّ حَلْقُ الرَّأْسِ فِي كُلِّ جُمُعَةٍ كَذَا فِي الْغُرَائِبِ وَلَا بَأْسَ لِلرَّجُلِ أَنْ يَخْلُقَ وَسَطَ رَأْسِهِ وَيُرْسِلَ شَعْرَهُ مِنْ غَيْرِ أَنْ يَقْتَلَهُ وَإِنْ قَتَلَهُ فَذَلِكَ مَكْرُوهٌ لِأَنَّهُ يَصِيرُ مُشَبَّهًا بِبَعْضِ الْكُفَرَةِ وَالْمُجُوسِ فِي دِيَارِنَا يُرْسِلُونَ الشَّعْرَ مِنْ غَيْرِ قَتْلِ وَلَكِنْ لَا يَخْلُقُونَ وَسَطَ الرَّأْسِ بَلْ يَجُزُّونَ النَّاصِيَةَ كَذَا فِي الدَّخِيرَةِ وَيَجُزُّونَ حَلْقَ الرَّأْسِ وَتَرَكَ الْفُؤْدَيْنِ إِنْ أُرْسَلَهُمَا وَإِنْ شَدَّهُمَا عَلَى الرَّأْسِ فَلَا

If one is not sure as to whether keeping a certain hairstyle falls under the ambit of imitating the non-believers then he should abstain from it. Rasulullah *sallallahu alaihi wasallam* is reported to have said:

كَذَا فِي الثَّنِيَّةِ يُكْرَهُ الْقَرْعُ وَهُوَ أَنْ يَخْلُقَ الْبَغْضَ وَيَتَرَكَ الْبَغْضَ قَطْعًا وَمُقَدَّرَ ثَلَاثَةَ أَصَابِعٍ كَذَا فِي الْقَرَائِبِ وَعَنْ أَبِي حَنِيفَةَ رَجَمَهُ اللَّهُ تَعَالَى يُكْرَهُ أَنْ يَخْلُقَ قَفَاهُ إِلَّا عِنْدَ الْحِجَامَةِ (الفتاوى الهندية، ج. ٥، ص. ٣٥٧، دار الفكر)

(و) (منها) (القرع) يفتح القاف والزاي فمهملة وهو أن يخلق بغض رأس الصبي ويترك منه مواضع النبي وتشيح الصورة ولتشيبه الكفرة فإذا منع من الصبي قبل الأولى من البالغ ثم يقل إلى الأعم من الصبي أو تجوز له وفي الجامع على رواية ابن عمر رضي الله تعالى عنهما { اخلقوه أي أزيلوا شعر الرأس كله أو أتزكوه كله } فخلق البغض مع ترك البغض مكروه مطلقاً تنزيهاً بلا عذر لرجل أو امرأة ذكره النووي في الفقا أو التاصية أو الوسط خلافاً لبغض ما فيه من التشويه وتشيح الصورة وزي أهل الفساد بل زي اليهود ويشمل ما إذا ترك مواضع متفرقة أو خلق الأكثر وترك محلاً واحداً وهو من كمال المحبة المصطفى للعدل فإنه أمر به حتى في شأن الإنسان مع نفسه فتباه عن خلق بغض وترك بغض لأنه ظلم للرأس حيث جعل بعضه كاسياً وبعضه عارياً وتظهره المشي في نعل واحدة.

وقوله اخلقوه يدل على جواز الحلق وهو مذهب الجمهور وخص ذلك بغض المالكية بالضرورة لزود النبي في غير الحج لكونه فعل المجوس والصواب الجواز بلا كراهة ولا خلاف الأولى وأما قول أبي شامة الأولى تركه للتشويه ومخالفة السنة إذ لم ينقل خلقه عليه الصلاة والسلام بل إنهم في غير نسأب لأنه شرع في الدين ما لم يأذن به الله تعالى ففي حيز المنع بلا ريب كيف وقد { خلق المصطفى صلى الله تعالى عليه وسلم رأس ابن جعفر بن أبي طالب رضي الله تعالى عنه } وأعدل حديث في هذا المقام قول حجة الإسلام لا بأس بخلق لمزيد التنظيف ولا بتركه لمن يدهن ويترجل يعني من قدر على دهنه وترجيله فبقاؤه له أولى ومن عسر عليه لصعيف وقفر قبلتد ويتوسخ ويجمع الثمل فخلقه أولى (بريقة

محمودية في شرح طريقة محمدية وشريعة نبوية)

الاقتصار على حلق الربع أو تقصيره عند التحلل؛ بالخروج من إحرام الحج والعمرة، وهذا الكراهة في جميع أحوال الحلق؛ لأن القرع منهي عنه، فعن ابن عمر رضي الله عنهم ع: (إن رسول الله صلى الله عليه وسلم نهى عن القرع، قال: قلت لنافع: وما القرع؟ قال: يخلق بعض رأس الصبي ويترك) (الجامع في أحكام الصيام والاعتكاف والحج والعمرة)

دَعُ مَا يَرِيْبُكَ إِلَى مَا لَا يَرِيْبُكَ^{٢٩٢}

“Leave that which puts you in doubt and implement that thing which does not put you in doubt.”

The Beard- its' definition

The definition of the beard is as follows²⁹³:

أَنَّ الْفَرَادَ بِالْحَيْةِ الشَّعْرُ الثَّابِتُ عَلَى الْخَدَّيْنِ مِنْ عِدَارٍ وَعَارِضٍ وَالذَّقْنِ^{٢٩٤}

“The following is meant by ‘*lihya*’: the hair that grows on the cheeks consisting of the sideburns (*idhār*), jawbone (*āridh*) and chin (*dhaqn*).”

عِدَارٍ: شعر الخدين من شحمة الاذنين الى منبت اللحية / القدر الميادي للاذن

“***Idhār***: The hair that grow on the cheeks; starting from the earlobe until the jawbone/ the area adjacent to the ears.”

عَارِضٍ: الشعر النابت على الخد و يمتد من اسفل العذار حتى يلاقي الشعر النابت على الذقن^{٢٩٥}

^{٢٩٢} سنن الترمذي، ج. ٤، ص. ٢٤٩، دار الغرب الإسلامي
^{٢٩٣} وفي شرح الإرشاد اللحية الشعر الثابت بمجتمع اللحيين والعارض ما بينهما ويين العذار وهو القدر المخاذي للأذن يتصل من الأعلى بالصُدغ ومن الأسفل بالعارض
(البحر الرائق شرح كنز الدقائق، ج. ١، ص. ١٦، دار الكتاب الإسلامي)

^{٢٩٤} البحر الرائق شرح كنز الدقائق، ج. ١، ص. ١٦، دار الكتاب الإسلامي
^{٢٩٥} الموسوعة الفقهية الكويتية/ المورد القريب

“**Aaridh:** The hair that grows on the cheek; it starts from the bottom of the *idhār* until the hair that grows on the chin.”

From the above mentioned definitions, we understand that the beard consists of the hair of the sideburns, jawbone and chin. Based on this, it is not permissible for one to shave of his sideburns or trim them because they are part of one’s beard which is *wājib* to keep. The *wājib* length one must grow his beard to is one fist as is stated in *Durarul Hukkam*.²⁹⁶

²⁹⁶ وَأَمَّا الْأَخْذُ مِنَ اللَّحْيَةِ، وَهِيَ دُونَ الْقُبْصَةِ كَمَا يَفْعَلُهُ بَعْضُ الْمَغَارِبَةِ وَمُحْتَنَةِ الرِّجَالِ فَلَمْ يُبَحِّهُ أَحَدٌ وَأَخْذُ كُلِّهَا فِعْلٌ مَجُوسٍ الْأَعَاجِمِ وَالْيَهُودِ وَالْهُنُودِ وَبَعْضُ أَجْنَاسِ الْإِفْرِيجِ كَمَا فِي الْقَنْحِ (درر الحکام شرح غرر الأحکام، ج. ۱، ص. ۲۰۸، دار إحياء الكتب العربية)

Sweet Salaam, Sour Imaan

Q: I am working in an organisation. Where ladies (Muslims) also works, while interacting with them should we say Asalaamu alaykum or no? When they say Asalaamu alaykum should we reply to them with wa alaykum salaam or any other word or keep quiet?

A: *Shari'ah* has unrivalled attributes. Not only does the *Shari'ah* prohibit a certain act, it takes all the measures to prevent someone from committing a prohibited act. The *Shari'ah* has clearly demarcated permissible from impermissible.

Allah Ta'ālā states in the Qur'ān:

وَلَا تَقْرُبُوا الزِّنَىٰ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا (الإسراء: ٣٢)

And do not (even) come close to fornication. Verily, it is a shameful deed and an evil path

(Qur'ān 17:32)

Not only are we commanded to not commit fornication, but, rather, to stay away from all that which leads to it. Hence, it is impermissible to engage and interact with the opposite gender without a need. One should refrain from all unnecessary interactions with females to whom he is not a *mahram*.

Allah Ta'ālā has mentioned in the Qur'ān,

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَىٰ لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ (النور: ٣٠)

Say (O Prophet) to the believing men to lower their gaze and guard their chastity. That is purer for them. Verily, Allah is All-Aware of what they do

(Qur'ān 24:30)

Casual interaction with females to whom one is not a *mahram* may start innocently; however, it leads to greater misdeeds as is evident in society.

We acknowledge the fact that extending *salām* is a virtuous deed, it is the name of Allah and it is a *sunnah*. However, we have to bear in mind that whatever leads us to the disobedience of Allah will be prohibited. Informality and casualness commence with the exchanging of *salām*. Any familiarity and ease between the opposite gender can lead to grave consequences.

Rightly or wrongly, it is a fact that there is intermingling of the sexes at the work places. Nonetheless, *Shari'ah* seeks to protect the integrity of a person in this world and the hereafter.

If there is a need for one to communicate with the opposite gender, then it should be straight forward and confined to the need. It is not permissible to be 'sweet' and communicate beyond the need. Being straightforward and confined to the need should not be interpreted as being rude. This is a clear injunction of Allah in the Qur'ān:

فَلَا تَخْضَعْنَ بِالْقَوْلِ فَيَطْمَعَ الَّذِي فِي قَلْبِهِ مَرَضٌ وَقُلْنَ قَوْلًا مَعْرُوفًا (الأحزاب ٣٢)

Do not be soft in speech [to men], lest he in whose heart is disease should covet, but speak with appropriate speech.

(Qur'an 33:32)

Hence, refrain from falling prey to any act which can lead one to compromise his integrity and loyalty to Allah, even though it may be the exchanging of *salām*.²⁹⁷

Islamic View on Contraceptives

Q: Is contraception permissible in Islam?

A:

Contraception can be divided into two categories:

- 1) Irreversible (or permanent) contraception
- 2) Reversible (or temporary) contraception²⁹⁸

Irreversible contraception

Irreversible contraception is usually carried out by means of a sterilisation operation. Normally, there are two types sterilisation operation; one is performed on the male and the other on the female.

Male sterilisation (vasectomy)

Male sterilisation involves severing the vas, the tubes which deliver the sperm from the testes to the penis, through an incision in the scrotum. This procedure is usually performed

²⁹⁷ فتاوى رحيمة ج ١٠ ص ١٢٦ دار الإفتاء
وَإِذَا سَلَّمَتِ الْمَرْأَةُ الْأُجْنَبِيَّةُ عَلَى رَجُلٍ إِنْ كَانَتْ عَجُوزًا رَدَّ الرَّجُلُ - عَلَيْهَا السَّلَامُ - بِلِسَانِهِ بِصَوْتٍ تَسْمَعُ،
وَإِنْ كَانَتْ شَابَةً رَدَّ عَلَيْهَا فِي نَفْسِهِ، وَكَذَا الرَّجُلُ إِذَا سَلَّمَ عَلَى امْرَأَةٍ أُجْنَبِيَّةٍ فَالْجَوَابُ فِيهِ عَلَى الْعَكْسِ
اهـ. (رد المحتار ج ٦ ص ٣٦٩ أيج أيم سعيد)

²⁹⁸ <http://www.essortment.com/types-birth-control-63181.html>

in a doctor's office using local anaesthetic and takes less than thirty minutes.²⁹⁹

Female sterilisation (tubectomy or tubal ligation)

When a woman ovulates, an egg is shed from the ovary and moves down the fallopian tube. If the egg meets a sperm, conception takes place. Sterilisation blocks the path of the sperm through the tube. Eggs are still released by the ovaries, but are broken down and safely reabsorbed by the body.

The operation usually involves cutting or blocking the fallopian tubes, which carry eggs from the ovaries to the womb. This prevents the eggs from reaching the sperm and becoming fertilised. It can be a fairly minor operation, with many women returning home the same day. As the ovaries aren't affected by this procedure, periods will continue as normal, with the ovaries continuing to release the same hormones. Tubal occlusion doesn't cause menopause or affect a woman's sexual desire or pleasure.³⁰⁰

Islamic viewpoint on irreversible contraception

Under normal circumstances, irreversible contraception, whether it is in the form of vasectomy or tubectomy, is absolutely prohibited in Shari'ah.

²⁹⁹ <http://www.contracept.org/vasectomy.php>

³⁰⁰ <http://www.nhs.uk/conditions/female-sterilisation/Pages/Introduction.aspx>
http://www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Female_sterilisation

Islamic law has prohibited castration. Sa‘d ibn Abi Waqqās *radiallahu anhu* narrates,

“The Prophet *salallahu alaihi wasallam* forbade ‘Uthmān ibn math‘ūn *radiallahu anhu* from abstaining from marriage. If he had allowed him, we would have castrated ourselves.”³⁰¹ (Sahīh al-Bukhāri)

Abdullah ibn Mas‘ūd *radiallahu anhu* says,

“We used to engage in Jihād with the Prophet *salallahu alaihi wasallam* and we had no one (with whom we could fulfil our desires). So we asked if we could get ourselves castrated. The Prophet *salallahu alaihi wasallam* forbade us from doing so.”³⁰²

Ibn Abidīn *rahimahullah* categorically states that castration is impermissible.³⁰³

The common thread between vasectomy and castration is that both destroy the power of reproduction in a man, although the ability to have conjugal relations still exists in both. Mufti Abdur Raheem Lajpuri *rahimahullah* states that the action of permanently preventing reproduction is

³⁰¹ عن سَعْدِ بْنِ أَبِي وَقَّاصٍ، يَقُولُ: «رَدَّ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى عُثْمَانَ بْنِ مَطْلُوفٍ التَّبَتُّلَ، وَلَوْ أَذِنَ لَهُ لَأَخْتَصَيْنَا» (صحيح البخاري رقم الحديث ٤٧٨٦)
³⁰² عَنْ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ، قَالَ: كُنَّا نَعْزُو مَعَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَنَا نِسَاءً، فَقُلْنَا: يَا رَسُولَ اللَّهِ، أَلَا نَسْتُخْصِي؟ «فَهَاتَا عَنْ ذَلِكَ» (صحيح البخاري رقم الحديث ٥٠٧١)
³⁰³ وَأَمَّا خِصَاءُ الْآدَمِيِّ فَحَرَامٌ (الدر المختار من نسخة رد المختار ج ٦ ص ٣٨٨ أجم أيم سعيد)
 ولا يجوز خِصَاءُ الْآدَمِيِّ لِأَنَّهُ تَمَثِيلٌ بِهِ وَهُوَ حَرَامٌ. (فتح باب العناية ج ٥ ص ١٨٠)

impermissible, hence under normal circumstances irreversible contraception is impermissible.³⁰⁴ Mufti Khalid Saifullah Rahmani *hafizullah* states the same in kitāb al-fatāwā.³⁰⁵ The impermissibility is further endorsed in Ahsan al-Fatawa.

Despite the clear prohibition of male and female sterilisation, scholars mention that in cases of absolute necessity, it will be permissible to carry out an irreversible method of contraception.³⁰⁶ The scholars should be consulted to gauge the necessity in any specific case.

Reversible contraception

Contraceptives work by preventing a man's sperm from fertilising a woman's egg, and this can be done in several different ways.

There are two main types of contraception:

- 1) **Barrier methods** - which physically prevent sperm from swimming into the uterus and fertilising the woman's egg.
- 2) **Hormonal methods** - which alter a woman's hormonal cycle to prevent fertilisation.³⁰⁷

³⁰⁴ كذا في فتاوى رحيمة ج ١٠ ص ١٨٣ دار الإفتاء

³⁰⁵ كذا في كتاب الفتاوى ج ٦ ص ٢٢٩ زمزم

³⁰⁶ كذا في فتاوى رحيمة ج ١٠ ص ١٨٢ دار الإفتاء

³⁰⁷ <http://www.avert.org/birth-control-contraception.htm>

The general ruling with regards to reversible contraception:

Allāmah Kāsāni (Allah have mercy on him) states in Bada'i' al-Sana'i',

"It is disliked to engage in contraception (ʿazl) with one's wife without her permission. This is because intercourse with ejaculation is the means to having a child, and having a child is her right. By resorting to contraception [without her permission], having a child is prevented, which is akin to being a reason for not fulfilling her right.

However, if the contraception was with the wife's agreement (rida), then it is not disliked. In such a case, she will have willingly forgone her right."³⁰⁸

The *Fuqahā'* further mention that to practice reversible contraception without any reason is somewhat discouraged (*makruh tanzihi*).

If reversible contraception is practiced due to a valid reason, then it will be permissible without any dislike whatsoever. For example:

- a) A woman is weak and unable to sustain pregnancy at the moment.
- b) Being on a journey or away from home.

³⁰⁸ وَيُكْرَهُ لِلزَّوْجِ أَنْ يَعْزَلَ عَنْ امْرَأَتِهِ الْحُرَّةِ بِغَيْرِ رِضَاهَا؛ لِأَنَّ الْوَطْءَ عَنْ إِتْرَالِ سَبَبِ لِحْصُولِ الْوَلَدِ، وَلَهَا فِي الْوَلَدِ حَقٌّ، وَيَالْعَزْلُ يَقُوْتُ الْوَلَدَ، فَكَانَتْ سَبَبًا لِقَوَاتِ حَقِّهَا، وَإِنْ كَانَ الْعَزْلُ بِرِضَاهَا لَا يَكْرَهُ؛ لِأَنَّهَا رَضِيَتْ بِقَوَاتِ حَقِّهَا (بدائع الصنائع ج ٢ ص ٣٣٤ دار الكتب العلمية)

- c) When there is discord between the husband wife and divorce seems likely.
- d) Fear of older siblings being subjected to any form of difficulty if another child is born.
- e) Fear that the child will become corrupt due to the corruption in the time and area one dwells in.
- f) Spacing out children in order to give them adequate and equal attention.³⁰⁹

Some forms of contraception are enumerated below:

1) Coitus interruptus/withdrawal method ('azl)

Coitus interruptus, also known as 'withdrawal' or the pull out method, is Latin for 'interrupted intercourse'. What happens is that the man pulls out his reproductive organ out from that of his spouse before ejaculation.³¹⁰

This was a common method in the time of the Prophet *salallahu alaihi wasallam*.³¹¹

This method is permissible as explicitly stated by the *Fuqahā*.

2) The rhythm method

كنا في أحسن الفتاوى³⁰⁹

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http://www.netdoctor.co.uk/sex_relationships/facts/coitusinterruptus.htm

عَنْ جَابِرٍ، قَالَ: «كُنَّا نَعْرِضُ عَلَى عَهْدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَالْقُرْآنُ يَنْزِلُ» (صحيح البخاري رقم الحديث ٥٢٠٩)

This method is also known as fertility awareness, periodic abstinence or the calendar method. It is a way of avoiding pregnancy by simply not having intercourse during the days when a lady ovulates.

The rhythm method of contraception is far less reliable. It is based on the average 28-day menstruation cycle. The idea is to time sexual intercourse outside of the period of ovulation.

This method is also permissible by way of analogy on the withdrawal method.

3) Condoms

There are two types of condoms; male and female. A condom is a barrier contraceptive - it blocks the route a sperm would take to fertilise an egg. They can be made from latex rubber, polyurethane, or lambskin.

Condoms stop the sperm from reaching the egg. It creates a physical barrier - this barrier makes sure fertilisation (pregnancy) does not occur. Apart from being made mainly of very thin latex rubber or polyurethane, male condoms contain a lubricant, as well as a spermicide that either destroys or damages the sperm. Extra spermicide is also available in most pharmacies.³¹²

Using a male condom is permissible also. A condom will not be regarded as a foreign object being inserted into the female's private part. Instead, it will be regarded as a *tābi'*

³¹² <http://www.medicalnewstoday.com/articles/152833.php>

(follower in ruling) of the male private part as without the male reproductive organ it cannot be used. Hence, it is dependent on the male reproductive organ.

However, a female condom will be disliked as it is inserted into a female's inner private part independently.

4) Intra-Uterine Devices (IUD)

This is also known as IUCD, coil, loop and the copper T. An IUD is a small, T-shaped plastic device that is wrapped in copper or contains hormones. The IUD is inserted into one's uterus by a doctor. A plastic string tied to the end of the IUD hangs down through the cervix into female private part. The IUD can be checked to see if it is in place by feeling for this string. The string is also used by the doctor to remove the IUD. Research shows an IUD works before fertilisation occurs.³¹³

Types of IUDs

Hormonal IUD:

The hormonal IUD, such as Mirena, releases levonorgestrel, which is a form of the hormone progestin. The hormonal IUD appears to be slightly more effective at preventing pregnancy than the copper IUD. The hormonal IUD is effective for at least 5 years.

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http://www.netdoctor.co.uk/sex_relationships/facts/contraceptivecoil.htm

Copper IUD:

The most commonly used IUD is the copper IUD (such as Paragard). Copper wire is wound around the stem of the T-shaped IUD. The copper IUD can stay in place for at least 10 years and is a highly effective form of contraception.

Both types of IUD prevent fertilisation of the egg by damaging or killing sperm. The IUD also affects the uterine lining (where a fertilised egg would implant and grow).³¹⁴

This is somewhat disliked and discouraged. The *Fuqahā* have stated that it is disliked to insert something into a woman's private area without any pressing need.³¹⁵

³¹⁴ <http://www.webmd.com/sex/birth-control/intrauterine-device-iud-for-birth-control>

³¹⁵ (ويكره وضعه) أي: وضع جميعه (في الفرج الداخل) لأنه يشبه النكاح بيدها , "محيط". (ذخر المتأهلين ص ١٧٠ دار الفكر)

وَفِي شَرْحِ الْوَقَايَةِ ثُمَّ وَضَعَ الْكُرْسُفَ مُسْتَحَبٌّ لِلْبَكْرِ فِي الْحَيْضِ وَلِلثَّيْبِ فِي كُلِّ حَالٍ وَمَوْضِعُهُ مَوْضِعُ الْبِكَارَةِ وَيُكْرَهُ فِي الْفَرْجِ الدَّاخِلِ. اهـ.

وَفِي غَيْرِهِ أَنَّهُ سُنَّةٌ لِلثَّيْبِ حَالَةَ الْحَيْضِ مُسْتَحَبَّةٌ حَالَةَ الطُّهُرِ وَلَوْ صَلَّتْ لَا يَغَيِّرُ كُرْسُفُ جَارٍ. (البحر الرائق ج ١ ص ١٩٣ أيج أم سعيد)

ثُمَّ وَضَعَ الْكُرْسُفَ مُسْتَحَبٌّ لِلْبَكْرِ فِي الْحَيْضِ، وَلِلثَّيْبِ فِي كُلِّ حَالٍ، وَمَوْضِعُهُ مَوْضِعُ الْبِكَارَةِ، وَيُكْرَهُ فِي الْفَرْجِ الدَّاخِلِ

(وفي بين السطور "عللوه بأنه يشبه إدخال اليد مع الاستغناء عنه) شرح الوقاية ج ١ ص ١٢٢ مكتبة إمدادية

ومما يتصل بهذا النوع من المسائل (١٣٢) أن اتخاذ الكرسف ستة عند الحيض، الثيب يستحب لها اتخاذ الكرسف بكل حال لأنها لا تأمن خروج شيء منها فيحتاط في ذلك خصوصاً في حالة الصلاة. وأما البكر فيستحب لها وضع الكرسف في حالة الحيض فلا يستحب لها ذلك في غير حالة الحيض. والظاهر

5) Diaphragms

The diaphragm is a dome-shaped bowl made of thin, flexible rubber that sits over the cervix. The diaphragm keeps sperm from entering the uterus by blocking the cervix. For added protection, spermicide is put into the bowl of the diaphragm and along its edges before inserting the diaphragm high into a woman's genital's so it covers the cervix.

The diaphragm is inserted up to 6 hours before having relations. More spermicide must be used each time a girl has relations while wearing the diaphragm. Additional spermicide should also be used if a girl is going to have relations more than 3 hours after she inserted the diaphragm. After relations, the diaphragm must be left in for at least 6 hours, but no longer than 24 hours. The diaphragm can be removed by placing a finger into the woman's private parts to pull it out.

إذا صلتَ بغير كرسف وأمنت أن يخرج منها شيء جازت صلاتها، والأحسن أن تضع الكرسف. وعن محمد بن سلمة البلخي رحمه الله أنه يكره للمرأة أن تضع الكرسف في الفرج الداخل، قال: لأن ذلك يشبه النكاح بيدها. (المحيط البرهاني ج ١ ص ٤٠١-٤٠٠ إدارة القرآن)

وَفِي شَرْحِ الْوَقَايَةِ: وَضَعُ الْكُرْسُفِ مُسْتَحَبٌّ لِلْبِكْرِ فِي الْحَيْضِ وَلِلنِّسَاءِ فِي كُلِّ حَالٍ، وَمَوْضِعُهُ مَوْضِعُ الْبِكَارَةِ، وَيُكْرَهُ فِي الْفَرْجِ الدَّاخِلِ. اهـ.

وَفِي غَيْرِهِ أَنَّهُ سَنَّهُ لِلنِّسَاءِ فِي الْحَيْضِ مُسْتَحَبٌّ فِي الطُّهْرِ، وَلَوْ صَلَّتَا بِدُونِهِ جَازَ. اهـ (رد المحتار ج ١ ص ٢٨٩ أجم أم سعيد)

This is somewhat disliked and discouraged also. The *Fuqahā* have stated that it is disliked to insert something into a woman's private area without any pressing need.

6) Oral contraceptive pills

The oral contraceptive pill (also called "the Pill") is a daily pill that contains hormones to change the way the body works and prevent pregnancy. Hormones are chemical substances that control the functioning of the body's organs. In this case, the hormones in the Pill control the ovaries and the uterus.

Most birth control pills are "combination pills" containing a combination of the hormones estrogen and progesterone to prevent ovulation (the release of an egg during the monthly cycle). A woman cannot get pregnant if she doesn't ovulate because there is no egg to be fertilized. The Pill also works by thickening the mucus around the cervix, which makes it difficult for sperm to enter the uterus and reach any eggs that may have been released. The hormones in the Pill can also sometimes affect the lining of the uterus, making it difficult for an egg to attach to the wall of the uterus.³¹⁶

Oral contraceptive methods are permissible to use also provided there is no harm. One should consult a doctor before using these pills.

7) Contraceptive injections

³¹⁶

http://kidshealth.org/teen/sexual_health/contraception/contraception_birth.html

Contraceptive injections contain a progestogen hormone which is similar to the natural progesterone that women produce in their ovaries.

There are two types of injection. Depo-Provera protects one from pregnancy for 12 weeks and Noristerat protects for eight weeks. Both of these are very effective. The main way they work is to stop the ovaries releasing an egg each month (ovulation). They also:

- Thicken the mucus from the cervix. This makes it difficult for sperm to move through it and reach an egg.
- Make the lining of the uterus (womb) thinner so it is less likely to accept a fertilised egg.

The hormone is injected into a muscle, usually into one's bottom. Depo-Provera can also sometimes be given in the arm.³¹⁷

This method is permissible also provided there is no harm. One should again consult a doctor to see if it is a suitable method for one.

8) Implant

An implant is a small flexible rod that is placed just under the skin in the upper arm. It releases a progestogen hormone similar to the natural progesterone that women produce in their ovaries and works for up to three years.

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<http://www.fpa.org.uk/helpandadvice/contraception/contraceptiveinjection#how-it-works>

The main way it works is to stop the ovaries releasing an egg each month (ovulation). It also:

- Thickens the mucus from the cervix. This makes it difficult for sperm to move through the cervix and reach an egg.
- It makes the lining of the uterus (womb) thinner so it is less likely to accept a fertilised egg.

This method is permissible also provided there is no harm. One should again consult a doctor to see if it is a suitable method for one.

9) **progestogen-only pill (POP)**

The **progestogen-only pill (POP)** contains a progestogen hormone which is similar to the natural progesterone women produce in their ovaries.

Progestogen-only pills are different to combined pills because they do not contain any estrogen.

The POP works in a number of ways:

- It mainly works by thickening the mucus from the cervix. This makes it difficult for sperm to move through it and reach an egg.
- It makes the lining of the uterus (womb) thinner so it is less likely to accept a fertilised egg.

It sometimes stops the ovaries releasing an egg (ovulation). This is the main action of one POP, Cerazette. This may

mean that Cerazette is more effective than other POPs, but research has not yet confirmed this.³¹⁸

This method is permissible also provided there is no harm. One should again consult a doctor to see if it is a suitable method for one.

10) IUS (Intrauterine system)

An **IUS** is a small T-shaped plastic device which releases a progestogen hormone. This is similar to the natural progesterone that women produce in their ovaries.

A trained doctor or nurse will put the IUS into the uterus (womb). The IUS has two soft threads at one end which hang through the opening at the entrance of one's uterus – cervix – into the top of one's private organ.

This is somewhat disliked and discouraged. The *Fuqahā* have stated that it is disliked to insert something into a woman's private area without any pressing need.³¹⁹

11) The contraceptive vaginal ring

The contraceptive vaginal ring is a flexible, transparent, plastic ring. It is placed in the vagina where it releases two

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<http://www.fpa.org.uk/helpandadvice/contraception/progestogenonlypillpop>

hormones – estrogen and progestogen. These are similar to the natural hormones that women produce in their ovaries and are like those used in the combined pill.

The vaginal ring releases a constant dose of hormones into the bloodstream through the vaginal wall. The main way it works is to stop the ovaries from releasing an egg each month (ovulation).

It also thickens the mucus from the cervix. This makes it difficult for a sperm to move through it and reach an egg. It makes the lining of the uterus (womb) thinner so it is less likely to accept a fertilised egg.

12) Birth control patches

The birth control patch is a thin, beige, 1¾-inch (4½-centimeter) square patch that sticks to the skin. It releases hormones through the skin into the bloodstream to prevent pregnancy. Hormones are chemical substances that control the functioning of the body's organs.

The combination of the hormones progesterone and estrogen in the patch prevents ovulation (the release of an egg from the ovaries during a girl's monthly cycle). If an egg isn't released, a girl can't get pregnant because there's nothing for a male's sperm to fertilise.

The hormones in the patch also thicken the mucus produced in the cervix, making it difficult for sperm to enter and reach any eggs that may have been released. The hormones can also sometimes affect the lining of the uterus

so that if the egg is fertilised it will have a hard time attaching to the wall of the uterus.³²⁰

This method is permissible provided there is no harm. One should consult a doctor to see if it is a suitable method for oneself.

IT work related to selling alcohol

Q: I am an IT graduate working for a hotel where they serve alcohol to the customer which is about 20% of the revenue. Being an IT engineer my responsibility is to take care of all hardware and software which includes POS machine which are you to take the customer's order and also a POS software where I create menu buttons which include alcohol items as well.

I am getting a fixed salary which does not depend on the sale of the alcohol. I have read the Hadith in which the messenger of Allah sallallahu alaihi wasallam cursed 10 people in connection with wine. What should I do in my case? Please tell me whether it is permissible for me to continue my job and whether my earned money is halal or not. I am already trying to find another job.

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http://kidshealth.org/teen/sexual_health/contraception/contraception_patch.html

A: In principle, if an item has dual or multiple purposes; some permissible and others impermissible; it will be permissible to produce, buy, sell and rent such an item. However, if an item has only one impermissible purpose, then it will not be permissible to produce, buy, sell or rent such an item.

Based on this principle, if the menu button can only be sued to denote the value of the alcoholic beverage, then it will be prohibitively disliked to develop such a button. However, if it is possible to make it a dual or multiple purpose button; by making it represent the value of another beverage of the same value such as water or a soft drink as well; then it will be permissible to create and produce such a button. If you can implement the aforementioned; then we hope that your income will not be contaminated. 321 322 323 324 325

^{٣٢١} لو أن مسلماً آجر نفسه ليعمل في الكنيسة و يعمرها لا بأس به لأنه لا معصية في عين العمل (فتاوى قاضي خان، ج. ٣، ص. ٣٣٠، دار الكتب العلمية)

^{٣٢٢} (قوله و جاز تغيير كنيسة) قال في الحاشية: ولو آجر نفسه ليعمل في الكنيسة ويعمرها لا بأس به لأنه لا معصية في عين العمل (ج. ٦، ص. ٣٩١، أيج أم سعيد)

^{٣٢٣} قال: رحمه الله (و جاز بيع العصير من حمار) البحر الرائق، ج. ٨، ص. ٢٣٠، دار الكتاب

الإسلامي

^{٣٢٤} والضابط عندهم ان كل ما فيه منفعة تحل شرعا فان بيعه يجوز (الفقه الاسلامي وادلته. الفصل

الاول: عقد البيع)

^{٣٢٥} مسلم آجر نفسه من مجوسٍ ليقود له الثار لا بأس به. كذا في الخلاصة. (الفتاوى الهندية، ج ٤

ص ٤٥٠ دار الفكر)

Would you be my Valentine?

Q: Is it a sin to celebrate Valentine's Day?

A: Let us examine the origin of Valentine's Day:

The History of Saint Valentine's Day

Valentine's Day started in the time of the Roman Empire. In ancient Rome, February 14th was a holiday to honor Juno. Juno was the Queen of the Roman Gods and Goddesses. The Romans also knew her as the Goddess of women and marriage. The following day, February 15th, began the Feast of Lupercalia.

Under the rule of Emperor Claudius II Rome was involved in many bloody and unpopular campaigns. Claudius the Cruel was having a difficult time getting soldiers to join his military leagues and creating a huge army. Many men did not want to participate in the army. This made Claudius furious. He believed that the reason for this was that Roman men did not want to leave their loved ones or their families. As a result, Claudius decided to cancel all marriages and engagements in Rome. Many people thought this was a preposterous and a cruel idea.

At that time, a Saint existed by the name of Valentine who was a priest of Rome in the days of Claudius II. He did not like the Emperor. He and Saint Marius aided the Christian martyrs and secretly married couples even after Emperor Claudius passed his law. He would isolate himself in a secret candlelit room with the bride and the groom. He whispered

the words of the ceremony, listening all the while for the steps of the soldiers.

One night, he heard the footsteps of the soldiers and the couples he was marrying escaped in time. Unfortunately he was caught. For this action of his, Saint Valentine was apprehended and dragged before the Prefect of Rome, who condemned him to be beaten to death with clubs and to have his head cut off. He was then thrown in prison and was told that his punishment was sentenced to death. The news spread and many young people came from across the land to visit him in prison. They threw flowers and notes up to the window. One of the young people was the daughter of the prison guard. Her father allowed her to visit Saint Valentine in the cell. Sometimes they would sit and talk for hours. She helped him in keeping up his spirits. She agreed that he had done the right thing by ignoring the Emperor and going ahead with the secret marriages. Saint Valentine had fallen in love with her and on the day he was to die, he left his little friend a note thanking her for her friendship and loyalty. He signed it, "Love from your Valentine."

Saint Valentine died on February 14, 269 A.D. Since then, every year people from all over the world commemorate this day as "Valentine's Day". At that time it was the custom in Rome, a very ancient custom, indeed, to celebrate in the month of February the Lupercalia, feasts in honor of a heathen god. On these occasions, amidst a variety of pagan ceremonies, the names of young women were placed in a box, from which they were drawn by the men as chance directed.

On the eve of the festival of Lupercalia, the names of Roman girls were written on slips of paper and placed into jars. Each young man would draw a girl's name from the jar and would then be partners for the duration of the festival with the girl whom he chose. Sometimes the pairing of the children lasted an entire year, and often, they would fall in love and would later marry.

It has been believed that the custom of exchanging love notes had started on Valentine's Day.

Valentine Traditions

Hundreds of years ago in England, many children dressed up as adults on Valentine's Day. They went singing from home to home. One verse they sang was:

*Good morning to you, valentine;
Curl your locks as I do mine ---
Two before and three behind.
Good morning to you, valentine.*

In Wales, wooden love spoons were carved and given as gifts on February 14th. Hearts, keys and keyholes were favourite decorations on the spoons. The decoration meant, "You unlock my heart!"

In the Middle Ages, young men and women drew names from a bowl to see who their valentines would be. They would wear these names on their sleeves for one week. Wearing the heart on the sleeve made it is easy for other people to know how they were feeling. In some countries, a

young woman may receive a gift of clothing from a young man. If she kept the gift, it meant that she would marry him.

From the history of Valentine's Day, we acknowledge that Valentine is not just a name of a holiday. In fact, Valentine was a man whom the Christians believe to be a saint. Moreover, the history of Valentine is based on Shirk. In addition to this, the actions committed by the young boys and girls,³²⁶ were purely the acts of fornication.

Islam is a religion of peace, love and unity. In Islam, there is no special day to express gratitude and love. In fact, everyday is a day to express love to one's wife, children, parents, elders etc. Islam has ordered us to be kind and just with our family members and close ones to the extent that even animals deserve love and affection. A beautiful Hadith of Rasullullah Sallallahu Alaihi Wa Sallam explains that Allah Subhanahu Wa Ta'alā had forgiven an immoral and a prostitute woman due to her kindness towards a thirsty dog.

“There was a dog who was circling a well. Thirst had nearly killed him when a prostitute from amongst the prostitutes of Bani Israeel had seen him. She removed her shoes and quenched the dog. Thereupon, she was forgiven due this action of hers.”

³²⁶ <http://www.history.com/topics/valentines-day>
http://www.pictureframes.co.uk/pages/saint_valentine.htm

(*Sahih Al-Bukhari* 4/173)³²⁷

We should show love to our loved ones everyday of our lives. Our love should not be confined to a particular date such as the 14th of February. A person receives tremendous amount of reward simply by placing a morsel in the mouth of one's wife. Imagine the reward for other good deeds. The Hadith mentions:

“And you spend not upon your family seeking the pleasure of Allah but that you are rewarded for it to the extent of placing a morsel in the mouth of your wife.”

(*Sahih Al-Bukhari* 5/178)³²⁸

However, due to the fact that the foundation of celebrating Valentine's Day is based on kufr and shirk, such a celebration is Harām and prohibited in Islam.

Rose Gold Jewelry for men

Q: I saw this watch online and instantly I fell in love with it. Is this watch permissible to wear in Islam for Muslim men?http://www.amazon.com/Dolce-Gabbana-DW0778-Chamonix-Bracelet/dp/B005OLIRHI/ref=pd_sbs_watch_1

³²⁷ بَيْنَمَا كُلُّ يَطْبُفٍ بِرَكِيَّةٍ، كَادَ يَشْتَلُهُ الْعَطَشُ، إِذْ رَأَاهُ بَعِيٌّ مِنْ بَعَايَا بَنِي إِسْرَائِيلَ، فَزَعَتْ مُوقِفَهَا فَسَقَنَتْهُ فَغَفَرَ لَهَا بِهِ (صحيح البخاري (١٧٣ / ٤)

³²⁸ وَلَسْتُ تُنْفِقُ نَفَقَةً تَبْتَغِي بِهَا وَجْهَ اللَّهِ إِلَّا أُجِزَتْ بِهَا، حَتَّى اللَّقْمَةُ تَجْعَلُهَا فِي فِي امْرَأَتِكَ (صحيح البخاري (١٧٨ / ٥)

A: Rose gold jewelry is a mixture of yellow gold with copper. All gold jewelry is a mixture of pure gold with either copper or silver colored alloys. Rose gold has more copper colored alloys, thus creating a pinkish hue to the gold.

Depending on the amount of copper used, the color of rose gold jewelry can be a very light and subtle pink to a more deep reddish hue. Rose gold jewelry comes in 9K, 14K, and 18K gold. It has as much pure gold in it as the more commonly known yellow gold.³²⁹

In principle, wearing a watch containing gold or silver is not permitted if the gold or silver touches the body.^{330 331} Also the main part of the watch from which the watch is benefitted must not include gold or silver.³³²

³²⁹ <http://rosegoldjewelry.org/rose-gold-jewelry/what-is-rose-gold> (Dec. 25, 2011)

³³⁰ يَكْرَهُ النَّظَرُ فِي الْمِرَاةِ الْمُتَّخَذَةِ مِنَ الذَّهَبِ أَوْ الْفِصَّةِ وَيَكْرَهُ أَنْ يَكْتَبَ بِالْقَلَمِ الْمُتَّخَذِ مِنَ الذَّهَبِ أَوْ الْفِصَّةِ أَوْ مِنْ دَوَاةٍ كَذَلِكَ وَيَسْتَوِي فِيهِ الذَّكَرُ وَالْأُنْثَى كَذَا فِي السَّرَاجِيَّةِ لَا بَأْسَ بِأَنْ يَكُونَ فِي يَدِ الرَّجُلِ أَوَايِي الذَّهَبِ وَالْفِصَّةِ لِلتَّجَمُّلِ لَا يَشْرَبُ مِنْهَا نَصٌ مُحَمَّدٌ رَحِمَهُ اللَّهُ تَعَالَى لِأَنَّ الْمُحَرَّمَ الْإِنْتِفَاعُ وَالِإِنْتِفَاعُ فِي الْأَوَايِي الشَّرْبُ كَذَا فِي الْكُبْرَى ثُمَّ الَّذِي اتَّخَذَ مِنَ الْفِصَّةِ مِنَ الْأَوَايِي كُلُّ مَا أَدْخَلَ يَدَهُ فِيهِ وَأَخْرَجَ ثُمَّ اسْتَعْمَلَ لَا بَأْسَ وَكُلُّ مَا يَصُبُّ مِنَ الْآيَةِ مِثْلُ الْأُشْتَانِ وَالذَّهْنِ وَالْغَالِيَةِ وَنَحْوِهِ فَكَانَ مَكْرُوهًا كَذَا فِي الْحَاوِي لِلْفَتَاوَى وَلَا بَأْسَ بِالْأَكْلِ وَالشَّرْبِ مِنْ إِنَاءٍ مَذْهَبٌ وَمُقَصِّصٌ إِذَا لَمْ يَصْغُ فَاهُ عَلَى الذَّهَبِ وَالْفِصَّةِ وَكَذَا الْمُضَبَّبُ مِنَ الْأَوَايِي وَالْكَرَاسِي وَالسَّرِيرِ إِذَا لَمْ يَقْعُدْ عَلَى الذَّهَبِ وَالْفِصَّةِ وَكَذَا فِي خَلْقَةِ الْمِرَاةِ مِنَ الذَّهَبِ وَالْفِصَّةِ وَكَذَا الْمِجْمَرُ وَالْبَحَامُ وَالسَّرِيحُ وَالشُّقْرُ وَالزَّكَابُ إِذَا لَمْ يَقْعُدْ عَلَيْهِ وَعَنْ أَبِي يُوسُفَ رَحِمَهُ اللَّهُ تَعَالَى أَنَّهُ كَرِهَ جَمِيعَ ذَلِكَ وَقَبِلَ مُحَمَّدٌ رَحِمَهُ اللَّهُ تَعَالَى مَعَهُ وَقَبِلَ مَعَ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى كَذَا فِي التُّمْرَنَاتِيَّةِ (الفتاوي الهندية، ج ٥، ص ٣٣٤: مكتبة رشيدية)

³³¹ امداد الاحكام، ج ٤، ص ٣٣٢: مكتبة دار العلوم كراشي

³³² ولأبي حنيفة رضي الله عنه حرفان:

We have seen the watch referred to in the query. The gold or silver around the band will touch the hand when wearing the watch.

Furthermore, the watch has polished rose-gold-tone hands. The hands of a watch are the main instruments in displaying the time. Hence the wearing of the watch in reference is impermissible.

Note that this ruling is applicable only if the content of gold in the rose-gold is equivalent to or more than the content of copper. If the content of copper is more than the gold, then this is not pure gold. Hence, if the rose-gold is 9K, ³³³ then the referenced watch is permissible to wear. ³³⁴

Wearing a Gold Watch for men

Q: I have a gold strap Rolex watch. I was informed that if the weight of the gold is less than the total weight of the

أحدهما: أن الأصل في المخلوقات إباحة الانتفاع بها، والحرمة لعارض، والنص ورد في تحريم الشرب والأكل في آنية الذهب والفضة، فكل ما يشبه المنصوص عليه في الاستعمال يلحق بالمنصوص عليه، وما لا يشبه المنصوص عليه (٢٩٠) يبقى على أصل الإباحة، وههنا يتصل الذهب والفضة ببدنه، وههنا لم يتصل ببدنه، فلم يكن نظير المنصوص عليه في الاستعمال، فالحاصل أن أبا حنيفة على هذا الوجه اعتبر حرمة الاستعمال فيما يتصل ببدنه صورة. والثاني: أن هذا تابع فلا يكره، كالجبة المكفوفة بالحرير، والعلم في الثوب، وقياساً على الشرب من يده وعلى خنصره خاتم فضة، فإن ذلك لا يكره (المحيط البرهاني، ج ٨، ص ٤٧: إدارة القرآن)

³³³ The World Book Encyclopedia, Vol. 8, Page 249

³³⁴ امداد المفتين، ص ٨١٥: دار الاشاعت

watch by more than 50% then it's permissible to wear. Now a days in many items there is gold content, e.g., pen, mobile phone, belts and sun glasses.

For example, the weight of watch is 100 grams and 18 carat gold is just 10 grams. Hence using it should be fine.

A: Gold items are of two types:

1. Dominant ingredient of the product is gold, e.g., 12 carats, 18 carats and 24 carats.
2. Dominant ingredient of the product is not gold, e.g., 9 carats.

Category 1: using such item is permissible with conditions:

1. Gold should not be touched while in use.
2. The main feature of the item should not be gold.

Category 2: The jurists are unanimous of the permissibility.

Hence, the watch in reference is impermissible to wear.³³⁵

³³⁵ قال: " ويجوز الشرب في الإناء المفضض عند أبي حنيفة والركوب على السرج المفضض والجلوس على الكرسي المفضض والسير المفضض إذا كان يتقي موضع الفضة " ومعناه: يتقي موضع الغم، وقبل هذا وموضع اليد في الأخذ وفي السير والسرج موضع الجلوس. وقال أبو يوسف: يكره ذلك، وقول محمد يروى مع أبي حنيفة ويروى مع أبي يوسف، وعلى هذا الخلاف الإناء المضرب بالذهب والفضة والكرسي المضرب بهما، وكذا إذا جعل ذلك في السيف والمشهد وحلقة المرأة، أو جعل المصحف مذهبا أو مفضضا، وكذا الاختلاف في اللجام والركاب والثفر إذا كان مفضضا، وكذا الثوب فيه كتابة بذهب أو فضة على هذا، وهذا الاختلاف فيما يخلص، فأما التمويه الذي لا يخلص فلا بأس به بالإجماع.. الهداية ٤/٣٦٣ دار احياء التراث العربي بيروت

يكره النظر في المرأة المتخذة من الذهب أو الفضة. ويكره أن يكتب بالقلم المتخذ من الذهب أو الفضة أو من دواة كذلك، ويستوي فيه الذكر والأنثى، كذا في السراجية.

لا بأس بأن يكون في بيت الرجل أو في الذهب والفضة للتجمل لا يشرب منها نص محمد رحمه الله تعالى لأن المحرم الانتفاع، والانتفاع في الأواني الشرب، كذا في الكبرى.

ثم الذي اتخذ من الفضة من الأواني كل ما أدخل يده فيه وأخرج، ثم استعمل لا بأس وكل ما يصب من الآنية مثل الأسنان والذهن والغالية ونحوه فكان مكروهاً، كذا في الحاوي للفتاوى.

ولا بأس بالأكل والشرب من إناء مذهب ومفضض إذا لم يضع فيه على الذهب والفضة، وكذا المضرب من الأواني والكراسي والسرير إذا لم يقعد على الذهب والفضة، وكذا في حلقة المرأة من الذهب والفضة، وكذا المحرم واللجام والسرير والثغر والركاب إذا لم يقعد عليه، وعن أبي يوسف رحمه الله تعالى أنه كره جميع ذلك وقيل: محمد رحمه الله تعالى معه وقيل: مع أبي حنيفة رحمه الله تعالى، كذا في التمرثاشي..

الفتاوى الهندية ٣٣٤/٥ دار الفكر

ولأبي حنيفة رضي الله عنه حرفان:

أحدهما: أن الأصل في المخلوقات إباحة الانتفاع بها، والحرمه لعارض، والنص ورد في تحريم الشرب والأكل في آنية الذهب والفضة، فكل ما يشبه المنصوص عليه في الاستعمال يلحق بالمنصوص عليه، وما لا يشبه المنصوص عليه يبقى على أصل الإباحة، وهناك يتصل الذهب والفضة بيده، وههنا لا يتصل بيده، فلم يكن نظير المنصوص عليه في الاستعمال، فالحاصل أن أبا حنيفة على هذا الوجه اعتبر حرمة الاستعمال فيما يتصل بيده صورة.

والثاني: أن هذا مانع فلا يكره، كالجبة المكفوفة بالحرير، والعلم في الثوب، وقياساً على الشرب من يده وعلى خصره خاتم فضة، فإن ذلك لا يكره.. المحيط البرهاني ٣٤٧/٥ دار الكتب العلمية، بيروت

امداد الاحكام ٣٣٢/٤ مكتبة دار العلوم كراچی

امداد المفتين ٨١٥ دار الاشاعت

GUIDELINES OF TAKFIR

Q: On what basis do we make takfir of someone? Do we base that on a person's outer actions or are we none to judge someone's inner self?

A: Takfir is to declare an individual or group, ostensibly Muslim, outside the fold of Islām. The 'ulamā' of fiqh (jurisprudence) and 'aqidah (belief) have delineated the rules of takfir.

In brief, takfir is made only in the following three cases:

1. Denial of the darūriyyāt (absolute necessities) of dīn. Darūriyyāt refer to those aspects of the religion which are known by immediate necessity to be from the religion of Muhammad (sallAllāhu 'alayhi wasallam), in that:

- a. they have reached us via recurrent and overflowing (mutawātir) transmission from him (sallAllāhu 'alayhi wasallam),*
- b. and the common people are aware that they are part of the religion of Islām.*

Examples of the darūriyyāt of dīn include: the oneness of Allah, the prophethood of Muhammad, the finality of prophethood, bodily resurrection in the afterlife, the prohibition of wine and adultery, the obligation of five daily salāhs, the obligation of the fasts of Rama-dān, the omnipotence and omniscience of Allāh Ta'ālā, and so on. If anyone denies any of these aspects of the religion, he has come out of Islām, and is regarded as a kāfir (non-Muslim).

2. Denial of aspects which are not darūriyyāt of dīn, but are mutawātir (mass-transmitted) from Nabī (sallAllāhu ‘alayhi wasallam), after having been informed of their mutawātir-nature. These aspects of dīn are known to be from the religion with certainty, but may not be common knowledge. An example of this is the granddaughter’s entitlement to one sixth of a deceased’s estate if the deceased is survived by no more than one daughter. Although this is categorically a part of the religion of Islām, and there is no room to contest it, the common people do not generally have awareness of this and similar intricate rulings. The ruling of this category of knowledge is slightly different to the previous category. Here, only after having been informed about the tawātūr and the incontestability of these aspects of dīn by reliable scholars, will takfīr be made of someone who denies them.

3. An action or statement which is an overwhelming indication towards the person not having belief in the necessary aspects of Islām, despite his claim to believe. Examples include prostrating to an idol, declaring, throwing the mushaf into a rubbish bin, belittling a prophet or any salient features of religion, and so on. Committing any sin besides these, like oppression, lying, adultery, drinking wine, backbiting and so on, while believing in their impermissibility, is not a basis for takfīr in the view of Ahlus Sunnah wa l-Jamā‘ah.

One must exercise utmost caution in matters of takfīr . When there is any ambiguity, one must consult with the ‘ulamā’ before considering any Muslim a disbeliever. Rasūlullāh (sallAllāhu ‘alayhi wasallam) used very harsh words for someone who mistakenly refers to a fellow Muslim as a “kāfir.” He (sallAllāhu ‘alayhi wasallam) said:

“Whoever says to his [Muslim] brother: ‘O kāfir!’ one of them returns with it. Either it is as he said, or it comes back on him.” (Sahīh Muslim)

In underscoring this cautious attitude towards takfīr, the ‘ulamā’ have stated that even if the scope for legitimate interpretation in a Muslim’s statement is small, and most interpretations of his statement would render him a kāfir, the jurist or judge must exercise restraint and issue a ruling on the legitimate interpretation, unless the person was to clarify that his intention was something that clearly entailed disbelief. Hence, all possible avenues must be exhausted before finding a person or group that is ostensibly Muslim to have come out of Islām. Only after a person’s disbelief has become obviously apparent can there be legitimate grounds for takfīr.

والمراد بالضروريات على ما اشتهر في الكتب: ما علم كونه من دين محمد صلى الله عليه وسلم بالضرورة، بأن تواتر عنه واستفاض، وعلمته العامة، كالوحدانية والنبوة، وختمها بخاتم الأنبياء، وانقطاعها بعده (إكفار الملحدین في ضروريات الدين، دار البشائر الإسلامية، ص. ۸۱)

الشرط عندنا ثبوته على وجه القطع، وإن لم يكن ضروريا، بل قد يكون بما يكون اسخفاً من قول أو فعل كما مر، ولذا ذكر في المسيرة أن ما ينفي الاستسلام، أو يوجب التكذيب فهو كفر...وما يوجب التكذيب جحد كل ما ثبت عن النبي صلى الله عليه وسلم ادعاؤه ضرورة، وأما ما لم يبلغ حد الضرورة كاستحقاق بنت الابن السدس مع البنت بإجماع المسلمين، فظاهر كلام الحنفية الإكفار بحجده، فإنهم لم يشترطوا سوى القطع في الثبوت، وجب حملة على ما إذا علم المنكر ثبوته قطعاً، لأن مناط التكفير وهو التكذيب أو الاستخفاف عند ذلك يكون، أما إذا لم يعلم فلا، إلا أن يذكر له أهل العلم ذلك (رد المحتار، سعيد، ج. ۴ ص. ۳۲۲)

جواهر الفقه للمفتي شفيع، مكتبة دار العلوم كراچی، ج. ۱ ص. ۶۳۱
قال ابن الهمام رحمه الله: وأما ما ثبت قطعاً ولم يبلغ حد الضرورة كاستحقاق بنت الابن السدس مع البنت بإجماع المسلمين فظاهر كلام الحنفية الإكفار بحجده...ويجب حملة على ما إذا علم المنكر بوته قطعاً (المسيرة، المكتبة المحمودية التجارية بمصر، ص. ۳۸۱)

والحاصل أن من تكلم بكلمة الكفر هازلاً أو لاعبا كفر عند الكل ولا اعتبار باعتقاده، كما صرح به في الخانية ورد المحتار عن البحر: رجل كفر بلسانه طائعا (أي غير مكره) وقلبه على الإيمان يكون كافرا ولا يكون عند الله مؤمنا، كذا في فتاوى قاضيان وهندية وجامع الفصولين (إكفار الملحدین في ضروريات الدين، دار البشائر الإسلامية، ص. ۴۰۱)

اتفقوا في بعض الأفعال على أنها كفر، مع أنه يمكن فيها أن لا ينسلخ من التصديق، لأنها أفعال الجوارح لا القلب، وذلك كالهزل بلفظ كفر وإن لم يعتقد، وكالسجود للصنم، وقتل نبي، والاستخفاف به، وبالمصحف والكعبة...التصديق المعتبر لا تجماع هذه الأفعال؛ ذكره العلامة قاسم في حاشية المسيرة (إكفار الملحدین، ص. ۴۱۱)

والاستهزاء على الشريعة كفر لأن ذلك من أمارات التكذيب (النبراس، حكيمة، ص. ٩٣٣)
قال القاضي عياض في الشفاء نقلاً عن أمام الحرمين الجويني: إدخال كافر في الملة وإخراج مسلم عنها عظيم في الدين (شرح الشفاء للملا القارئ، دار الكتب العلمية، ج. ٢، ص. ٩٩٤)
قال رسول الله صلى الله عليه وسلم: أيما امرئ قال لأخيه: يا كافر، فقد باء بها أحدهما، إن كان كما قال وإلا رجعت عليه (فتح الملهم، دار إحياء التراث العربي، ج. ٢، ص. ٨٢)
في البحر من باب المرتد نقلاً عن الفتاوى الصغرى: الكفر شيء عظيم فلا أجعل المؤمن كافراً متى وجدت رواية أنه لا يكفر، ثم قال: والذي تحرر: أنه لا يفتى بكفر مسلم ما أمكن حمل كلامه على محمل حسن، أو كان في كفره اختلاف، ولو رواية ضعيفة (شرح عقود رسم المفتي، مكتبة البشرى، ص. ٨٥)
وفي الهندية: إذا كان في المسألة وجوه توجب الكفر، ووجه واحد يمنع، فعلى المفتي أن يميل إلى ذلك الوجه، إلا إذا صرح بإرادة توجب الكفر، فلا ينفعه التأويل حينئذ، ثم إن كان نية القائل الوجه الذي يمنع التكفير فهو مسلم، وإن كان نيته الوجه الذي توجب التكفير لا ينفعه فتوى المفتي (إكفار الملحد، ص. ١٠١)

ABOUT 73 FIRQAH (AQEEDAH)

Q:From various resources, we know that, Muslims will be divided into 73 firqahs and among them, only one will be the righteous one. ahle sunnah wal jalaah.

There is a short interpretations of some of these aqeedahs in a book claimed to be written by Abdul Qader Jilani (Rh). However, the list is incomplete and the descriptions are also very brief.

Since we are living in a time of fitnah, we need to know these aqeedahs properly to remain cautious of them. Could you please enumerate those 73 firqahs with vivid descriptions. Also please let us know the books/treatise where we can get those information at length.

A : The Ulama' have compiled a number of books in an effort to identify the the names of the 72 deviated milal (sects). However, we should keep in mind that the names of the main, known sects are few in number.

On the other hand, if one were to count all the sub-divisions of these well-known sects it might well add up to be more than 72. There are a number of reasons for this:

1.) Some of the sub-divisions might have beliefs that take them out of the fold of Islam. As a result they would not be counted among the 72 deviated groups, because they would no longer be a sect, but disbelievers instead. As an example if, Allah forbid, somebody believes in the divinity of Ali (radiyallahu anhu) they would have left the fold of Islam.

2.) Rasulullah (salallahu alayhi wa sallam) did not say that these sects would all appear at one time. Some sects might appear in the future which would increase the number.

3.) Some sects although appearing to be separate or different might have the same usool (principles), thus being one sect in principle. As a result the number would vary depending on how they are identified. Keeping the above principles in mind we can be sure that the number of deviated sects is 72 because Rasulullah (salallahu alayhi wa sallam) has informed us.

Here is an example of how the 72 milal have been divided by the author of Mazahir Haqq: The 72 milal plus (Ahl al-Sunnah Wal Jama'ah) for a total of 73 can be divided into 8 main groups:

Beliefs

Mu'tazilah - Among their beliefs is that is that:

*One will not be able to see Allah on the Day of Judgement.

*It is obligatory on Allah to reward the righteous and punish the disobedient. *A believer who commits a major sin does not remain a believer and neither does he come a disbeliever – but occupies a position in between.

Shia: They give preference to Ali (radiyallahu anhu) over Abu Bakr, Umar and Uthman (radiyallahu anhum). Depending on the sect, some believe that the Quran is not present in its complete form and other beliefs that are not in conformity with the views of Ahl as Sunnah wal Jama'ah.

Khawarij: *They initially supported Ali (radiyallahu anhu) but later opposed him.

*They believe that a person becomes a disbeliever after committing a major sin.

Murjiyah: They believe that only imaan (faith) in Allah is sufficient and one is not obligated to do any good deeds. Further, they believe that just as a disbeliever does not benefit from his good deeds, likewise a believer is not affected negatively by any of his bad deeds.

Najariyah: They reject the attributes of Allah.

Jabariyah: Their belief is that a person has no control or say over his actions.

Mushabiha: Their belief is that Allah has body parts like humans based on their literal assumptions.

Najiyah: This is the saved denomination, Ahl as Sunnah wal Jama'ah

who are staunch followers of the sunnah of Rasulullah (salallahu alayhi wa sallam), respect and honor the Ahl al-bayt [family of Rasulullallah (salallahu alayhi wa sallam) and believe that all the Sahabah (radiyallahu anhum) are just and pious without exception.

*Abu Bakr (radiyallahu anhu) is the highest-ranking companion, then Umar, then Uthman and then Ali (radiyallahu anhum).

[i] عقائد الاسلام، ص. ۳۴۲ مولانا إدريس كاندلھوي

[ii] مظاهر حق جديد، ۱/ ۸۰۲ - ۹۰۲

NATIONALISM IN ISLĀM

Q: What is your opinion regarding nationalism and does it have any relevance with Islam?

A: Moderation is the hallmark of Islam. Any deviation towards negligence or extremism is condemned.

Shari'ah gives recognition to every natural angle and dimension of human beings, from the male gender to the female gender, from blood relations to milk relations, from families to tribes and from nations to trans-nations.

Consider the following verse:

“Oh People! Indeed we have created you from a male and female.”
(49:13)

“And we have made you into nations and tribes.” (49:13)

Shari‘ah also appreciates the diverse values and practices that arise from gender, cultural, ethnic and national differences, and, accordingly, has laws governing such issues.

The divine reason given for the categorisation of human beings as tribes, families and nations is mutual recognition and respect for each other.

After explaining the basic structure of human societies, Allāh (subhānahū wa ta‘ālā) says: “So that you may recognise each other” (49:13)

Nationalism

It is natural for a human being that is born and brought up in a particular tribe or country to have love for his tribe and country. This is also appreciated and recognised in Shari‘ah. Hazrat Bilāl (radiyAllāhu ‘anhū) migrated to Madīnah Munawwarah, and he fell sick. He began thinking of valleys, trees, and water wells of his native land, Makkah Mukarramah, and expressed his wish in poetic form. Consider the following Hadīth:

‘Ā’ishah (radiyAllāhu ‘anhā) says that Rasūlullāh (sallAllāhu ‘alayhi wasallam) came to Madīnah and Abu Bakr and Bilal (radiyAllāhu ‘anhumā) did not agree with the climate of Madīnah. She further states: “Whenever the fever would subside from Bilāl, he would say: ‘Behold, would that I knew, whether I will spend another night in a valley, with lemon grass and shrubs around me, and whether I will come [to drink] on day from the water of Majannah, and whether Shāmah and Tafil would appear before me.’” (Sahīh al-Bukhārī, Hadīth # 1889)

The books of hadīth have dedicated chapters on the recognition of various tribes. For example, Rasūlullāh (sallAllāhu ‘alayhi wasallam) said about Quraysh:

“Mankind are followers of the Quraysh in good and bad” (Musannaf Ibn Abī Shaybah, Hadīth # 32382)

Rasūlullāh (sallAllāhu ‘alayhi wasallam) also mentioned other tribes:

“Quraysh, Ansār, Juhaynah, Muzaynah, Aslam, Ghifār and Ashja‘ are masters, they do not have any master except Allah and His messenger” (Bukhārī, Hadīth # 3504)

The recognition given to the various tribes induces a sense of honour and pride in its members.

Overarching Principle

Whilst there is general recognition of diversity in terms of ethnicity and nationality, if there is a good quality or characteristic that enhances the value of the tribe or nation, that is also recognised and deemed praiseworthy. Rasūlullāh (sallAllāhu ‘alayhi wasallam) said:

“The best women who ride camels are the pious women of Quraysh, the most kind to an orphan in its infancy and most considerate of her husband’s wealth and possessions.” (Sahīh Muslim, Hadīth #2527)
Conversely, if there is anything un-Islamic, for example, oppression stemming from nationalism, that will be condemned.

Hazrat Wāthilah ibn al-Asqa‘ asked Rasūlullāh (sallAllāhu ‘alayhi wasallam): “What is ‘Asabiyyah?” He replied: “To assist your nation/people upon oppression.” (Abu Dāwūd, Hadīth # 5119)

Rasūlullāh (sallAllāhu ‘alayhi wasallam) said: “*He who invites towards nationalism, fights because of nationalism and dies upon nationalism is not from amongst us*” (Abū Dāwūd, Hadīth # 5121)

Hazrat Mawlānā Khalīl Ahmed Sahāranpūrī (rahmatullāhi ‘alayh) states under the commentary of this Hadīth that, “The meaning of dying on ‘Asabiyyah is that it becomes entrenched in the heart of the person and desired by him, even if he did not invite anyone to it nor did he kill anyone.”

Nationalism has a tendency of evoking deep emotions in a person which could overshadow the correct and proper thinking of an individual. Such a person is robbed of his moderation, justice and fairness. Consider the following thought-provoking incident that took place in the time of Rasūlullāh (sallAllāhu ‘alayhi wasallam) and Rasūlullāh (sallAllāhu ‘alayhi wasallam)’s response to such nationalism. Hazrat ‘Amr Bin Dinār narrates that he heard Jābir saying: “We went out in battle with Nabī (sallAllāhu ‘alayhi wasallam) and a group of Muhājirīn also joined until they became plenty. There was a playful man from the Muhājirīn and he hit an Ansārī on the back. Thus, the Ansārī became extremely angry until they both rallied for support. The Ansārī said: “Oh Ansar! Help me.” And the Muhājir said: “Oh Muhājirīn! Help me.” Nabī (sallAllāhu ‘alayhi wasallam) emerged and enquired: “What is the reason for this call of Jāhiliyyah?!” Then he said: “What is the matter with them?” He was informed of the Muhājir hitting of the Ansārī. Then Nabī (sallAllāhu ‘alayhi wasallam) said: “*Leave this [nationalism], for verily it is filthy!*” (Bukharī, Hadīth # 3519)

WHAT IS ISLAM'S STANCE ON INTERFAITH DIALOGUES?

Q: (1) What is the status & is there any place for interfaith dialogue in Shariah? To date, and may be I am wrong, my understanding is that it can lead to corruption of one's own Deen by listening to the ideologies of other religions our heart will be affected. Listening & contemplating their Dawat will affect our heart.

(2) Furthermore, did Rasulullah Sallallahu Alayhi Wasallam ever engage in interfaith dialogue or was his mission refutation of batil ideologies & Dawat Illallah only? I was thinking here about Surah Al Kafiroon.

(3) How about entering in to a church and participating in the service at the church as part of interfaith dialogue. Is one's presence there not a condoning of shirk? In some cases would this not render one out of the fold of Islam?

(4) Islam is the only accepted religion in the Court of Allah. So what is the purpose of interfaith dialogue? Is it not the case that our religion is categorical in that the Kuffar will never be happy with us until we adopt their ways? That being the case, why are Muslims, ulama amongst them, participating in interfaith dialogue & even studying the scriptures of others?

(5) At interfaith gatherings there is photographing & intermingling of the sexes in the sense that one has to look at the face of a female if not sit with her. Is interfaith such a necessity that this is acceptable?

(6) It is very confusing when one sees Ulama participating in interfaith dialogue, meetings & functions, because one begins to think there must be some Shar'i daleel for their actions but I have not seen any public daleel on this issue?

A : At the outset, it is important to understand that Islam does not teach us to cut ourselves away from non-Muslims and discontinue all forms of contact with them. As a matter of fact, it is an integral part of a Muslim's character and conduct to show sympathy, kindness, politeness and proper etiquettes when dealing with Muslims and non-Muslims alike. However, if having such a relationship leads one to neglect the commands of Allah Ta'ālā and compromise one's beliefs, then it will not be feasible for one to continue such a relationship as it is a danger to one's iman. In light of this, one may maintain a friendly relationship with non-Muslims as long as it does not bring one to neglect his duties to Allah Ta'ālā or compromise one's religious beliefs.

Taken this point into consideration, we shall attempt to answer each of your questions:

(1) Allah Ta'ālā says in the Holy Quran:

Invite (people) to the way of your Lord with wisdom and good counsel. And argue with them in the best of manners. Surely, your Lord knows best the one who strays from His way, and He knows best the ones who are on the right path.

It is clear from the verse above that general dialogue between Muslims and non-Muslims is sanctioned by Allah Ta'ālā as long as it is carried out in a dignified manner that neither lacks in wisdom, nor does it become burdensome on the addressee or a source of uneasiness for him. Consider the story of Mūsā (alaihis salam) and his brother Hārūn (alaihis salam) when they were sent to the tyrant Fir'aun. Even though Fir'aun was a man who claimed divinity, Allah Ta'ālā still advised Mūsā and Hārūn (alaihimas salam) to address him in a soft manner that is gentle and amiable to their opponent. The mission of the anbiyā (alaihimus salam) was to bring others

towards the light of tawhīd (belief in the oneness of Allah Ta'ālā) without compromising on their own beliefs. In this context, if Muslims and non-Muslims engage in dialogues where the prime focus is for the Muslim to bring the non-Muslims towards Islam then in essence it is furthering the mission of the anbiyā (alaihimus salam). On the other hand, if such dialogues are held in order to find a common ground between Muslims and non-Muslims in matters of creed and beliefs, then such a dialogue holds no purpose as it is tantamount to sacrificing one's own beliefs as a Muslim for the sake of someone other than Allah the Almighty.

If the prime aim of such dialogues is to bring about harmony between people of different religions and further humanitarian efforts in global causes, then it should not be necessary for one to disregard one's beliefs in order bring about such peace. It goes without saying that this discussion pertains to meetings and gatherings where the laws of Shari'ah are not disregarded when engaging in such dialogues (e.g., mixing of genders, playing of music, neglecting one's prayer, photography, etc.); otherwise, such a meeting holds no place for a Muslim even if it is only for the purposes of da'wah.

(2) The cause of revelation for Surah al-Kāfirūn as related by Imam al-Qurtubī is as follows:

Ibn Ishaq reports from Ibn 'Abbās (radiyallahu anhu) that the cause of revelation for this is that Walīd bin Mughīrah, 'Ās bin Wā'il, Aswad bin 'Abdul-Muttalib and Umayyah bin Khalaf approached the Messenger of Allah (sallallahu alaihi wa sallam) and said: Oh Muhammad, come so we can worship (the being) you worship and you worship that which we worship; thus, we can be on equal terms in all of our matters. If that which you bring is better than that which we have, then we shall take part in it and take our share from it. On the other hand, if that which we have is better than that which you have,

then you shall take part in our matter (of shirk) and take your share from it.” And so, Allah ‘Azza wa Jalla revealed: “Say, ‘O disbelievers’..”

In light of the above narration, we can clearly see that Surah al-Kāfirūn was revealed in reply to the absurd proposal made by the polytheists of Makkah. As explained before, the ultimate purpose of the anbiyā (alaihimus salam) was to propagate the message of tawhīd and bring out people from the darkness of kufr (disbelief) and shirk (polytheism) and take them towards the light of Islam. Moreover, there are numerous instances where the Holy Prophet (sallallahu ‘alaihi wa sallam) himself engaged in dialogues with his opponents or responded to questions posed by them for the sake of bringing them towards pure faith in Allah Ta‘ālā. Famous examples of this include:

- the dialogue between the Holy Prophet (sallallahu alaihi wa sallam) and the leaders of Quraish before the revelation of Surah al-‘Abas
- the dialogue between the Holy Prophet (sallallahu alaihi wa sallam) and ‘Utbah Abul Walīd and his proposal of giving wealth and power to the Holy Prophet (sallallahu alaihi wa sallam) for giving up his mission
- the questions posed by ‘Uqbah bin Abi Mu‘ayt and Nadr bin Hārith regarding the people of kahf, Dhul Qarnayn, and the reality of the rūh

Similarly, there are many instances throughout the lives of the anbiyā (alaihimus salam) where they had to engage their family members and opponents in dialogue as well. Famous examples of this include:

- the dialogue between Mūsā (alaihis salam) and Fir’aun in regards to the being of Allah the Almighty

- the dialogue between Ibrāhīm (alaihis salam) and his people after he destroyed their idols and they plotted to throw him into the fire
- the dialogue between Ibrahīm (alaihis salam) and King Namrūd in regards to the power of Allah Ta'ālā
- the dialogue between Ibrahim (alaihis salam) and his father in regards to leaving the worship of idols
- the dialogues between Hūd (alaihis salam), Sālih (alaihis salam), Shu'ayb (alaihis salam), Lūt (alaihis salam) and their people mentioned throughout Surah ash-Shu'arā

As mentioned before, the dialogues between anbiyā (alaihimus salam) and their people never involved sacrificing one's beliefs for the sake of gaining common ground with their opponents. If such engagements are carried out where one apparently has to accept certain beliefs that contradict Islam in order to find common ground, then such dialogues are fruitless and bear no resemblance to the stance held by the great anbiyā (alaihimus salam).

(3) It should first be understood that the 'Ulamā try their best to be cautious when issuing rulings pertaining to takfir (charging someone with disbelief). It is for this reason that one should not be hasty by jumping to conclusions regarding such delicate issues. Deeming someone to have left the folds of Islam due to a certain deed is not so black and white that one can simply come to a conclusion without knowing the true intentions of the person under scrutiny. Simply put, one should always avoid questioning the beliefs of another Muslim, especially when it involves generalizing upon all Muslims who are involved in a similar act. It is correct to say that it is not advisable for a Muslim to enter a church as it may have a negative impact on one's iman. As a religion, Islam holds beliefs that are fundamentally

different when compared to Judaism and Christianity. While visiting a church does not mean one is changing his beliefs, it definitely forces one to be in an environment full of symbols and items that are contrary to one's beliefs.

To understand this more simply, will anyone allow pictures of Isa (alaihis salam) or the cross to be displayed in one's house, let alone in one's masjid? If a simple picture can deprive one of the angels' company in one's house, then what can one say about pictures symbolising ideologies contrary to fundamental beliefs in Islam? It goes without saying that once one enters such an environment, one is forced to witness such things and make place for them in one's mind and heart, even if it may not be the intent of the Muslim.

Before we conclude this part of our discussion, we will again restate the first point made at the beginning of this answer. Even though attending gatherings at a church are not feasible for a Muslim, this does not mean one is not allowed to engage in religious discussions at all with non-Muslims. Everything has its proper place and time. Similarly, religious discussions do not have to take place in an environment full of imagery contrary to a Muslim's core beliefs. If one wishes to further propagate this religion, then one should find another place to hold such a meeting where neither the Muslim feels uneasy nor does his addressee. It is a form of respect to engage in such dialogues in an environment that pacifies the needs of both parties and provides comfort to both without forcing either to forego a part of their identity as a follower of their religion.

(4) It is true that Islam is the true religion as designated by Allah Ta'ālā himself in the following verse of the Quran:

This day I have perfected for you your religion and completed My favor upon you and have approved for you Islam as religion.
Allah Ta'ālā also sent the Holy Prophet (sallallahu alaihi wa sallam)

as a mercy to all mankind who invites others towards Islam and saves them from the punishment of the hereafter. He the Alimighty says in the Holy Quran:

O Prophet, indeed We have sent you as a witness and a bringer of good tidings and a warner. And one who invites to Allah , by His permission, and an illuminating lamp. And give good tidings to the believers that they will have from Allah great bounty.

In pursuing the goal of da'wah, Allah Ta'ālā outlines another rule in adopting such a path in the next verse:

And do not obey the disbelievers and the hypocrites but do not harm them, and rely upon Allah . And sufficient is Allah as Disposer of affairs.

It is clear from these verses that the Holy Prophet (sallallahu alaihi wa sallam), like all other anbiyā (alaihimus salam), was sent with the mission to bring all people out of darkness towards the light of Islam. Similarly, as the heirs of the anbiyā (alaihimus salam), the 'Ulamā also seek to further this endeavour and bring those from different faiths towards the pure teachings of Islam. Many a times, people reject Islam simply because it was portrayed to them in a distorted manner without highlighting the true teachings of Islam. The primary purpose isn't to sacrifice one's beliefs in order to please the other party; rather, the purpose is to give da'wah and fulfil our obligation upon the people of this world.

Da'wah means to call one to Islam even if the other party does not accept the message. As Muslims, we must at least make an effort to portray Islam in the manner portrayed by our messenger (sallallahu alaihi wa sallam). As stated before, this does not mean one has to sacrifice his beliefs by engaging a discussion on a platform that calls

for Muslims to accept beliefs contrary to Islam. For more information regarding this issue, refer to answers one and two.

In regards to reading the scriptures of other religions, one should keep in mind the following points:

1. The Quran is the absolute truth that abrogates the past religions in terms of religious injunctions, not necessarily in terms of core beliefs that are concurred by Islam such as tawhīd, belief in the angels, belief in the Day of Judgment, etc.
2. The scriptures that we see today are not in the same form that they were originally revealed in. Nevertheless, this does not mean that everything mentioned within them will conflict with the original teachings of that religion that concur with Islam.
3. The studying of another scripture by the Ulamā is not done to seek truth other than Islam; rather, it is done to understand the stance of those who come from different religions and in doing so, empower one's da'wah with the knowledge of one's addressee. It should be noted that such an approach should only be taken by learned 'Ulamā; if any average laymen picks up scriptures of different religions without proper knowledge of one's own creeds and beliefs, then it may have a detrimental effect on one's own Iman.
4. While studying these scriptures, one should follow the guidelines laid out by Hafīdh ibn Kathīr in his introduction to Al-Bidāyah w'an-Nihāyah:
5. *"In regards to those things that are consolidated by our Shari'ah as being the truth, we have no need for such (narrations) because what we have is sufficient for us. And in regards to those things that are rejected by our Shari'ah as being false, such narrations will be disregarded and it is not permissible for one to narrate such things except for*

the purpose of disapproving or denouncing it. When Allah (glory be to Him to whom all praises are due) has sufficed us through His prophet Muhammad sallallahu alaihi wa sallam from all other religions, and through His book from all other books, we do not have a need to compare and contrast that which is in our hands with something that contains mixed information, falsehood, interpolation, and alterations, let alone the changes and abrogation that occurred thereafter. The teachings we were in need of have already been explained to us by our prophet (sallallahu alaihi wa sallam). He has explained it and clarified it (for us). Those who can understand (this) understood, and those who are ignorant remain ignorant (of this fact) as stated by ‘Ali bin Abī Tālib (radiyallahu anhu): The book of Allah; in it lies the best of that which was before you, the news of that which is after you, and decisions regarding that which occurs between you. It is the defining factor; it is not to be taken as a joke. Whosoever leaves it from amongst the oppressors is torn apart by Allah. And whosoever seeks guidance other than it, he is casted away by Allah.”

It is an undeniable fact that only the ‘Ulamā can live up to the conditions set out by Hafidh ibn Kathīr (rahimahullah).

Who other than them will be able to differentiate right from wrong without having firm knowledge of our scripture, the Quran, beforehand?

(5) See answer number one.

(6) First and foremost, it is important for each and every Muslim to think well of all other Muslims. Allah Ta‘ālā says in the Holy Quran: *O you who have believed, avoid much [negative] assumption. Indeed, some assumption is sin.*

How can one expect to move ahead if he begins to doubt *Ulamā*, who are the heirs of the *anbiyā* (alaihimus salam), the ones who are blessed by Allah *Ta'ālā* and chosen to be the guardians of the religion propagated by Rasūlullah (sallallahu alaihi wa sallam)?

It is not our job to taint the name of *Ulamā* for their efforts in furthering this Deen to the masses. Although we may discuss injunctions relating to entering churches, mixed gatherings, and photography, we do not have the right to become a judge of their actions. This is the right of the Master of all creation, Allah Subhanahu wa *Ta'ālā* alone.

Who are we to condemn an *Ālim* by asking a public *dalil* and disregard our duty to think well of all Muslims. It may be our right to disagree with the approach taken by some, but never is it our right to slander them as we are unaware of their true intentions and the circumstances that burden Muslims throughout the world.

One who is sitting in one corner of the world living out his own way of life can never be aware of the needs and problems that *Ulamā* face throughout the world in their individual communities. Such knowledge only belongs to Allah *Ta'ālā*. From a *fiqhī* (judicial) perspective we may disagree with some issues, but this does not mean that we can claim to know all of the circumstances and state of affairs *Ulamā* are forced into due to the inherent need of a certain society. In such matters, we should focus on matters that pertain to our own *ākhirah*, lest we err in our understanding and are reprimanded for such thoughts on the Day of Judgment by Allah the Almighty himself.

...And every soul earns not [blame] except against itself, and no bearer of burdens will bear the burden of another. Then to your Lord is your return, and He will inform you concerning that over which you used to differ. And it is He who has made you successors upon the earth and has raised some of you above others in degrees [of rank] that He may try you through what He has given you. Indeed, your Lord is swift in penalty; but indeed, He is Forgiving and Merciful.

Fatawa Mahmudiyyah, vol 19, pg. 546, Darul Iftaa Jami'ah Faruqiyyah ;
Ma'ariful Quran by Mufti Muhammad Shafi Uthmani, Surah Aal 'Imran, verse 28;

وَعَلَّمَ أَنَّ كَوْنَ الْمُؤْمِنِ مُوَالِيًا لِلْكَافِرِ يَحْتَمِلُ ثَلَاثَةً أَوْجُهَ أَحَدُهَا: أَنْ يَكُونَ رَاضِيًا بِكُفْرِهِ وَيَتَوَلَّاهُ لِأَجْلِهِ، وَهَذَا مَمْنُوعٌ مِنْهُ لِأَنَّ كُلَّ مَنْ فَعَلَ ذَلِكَ كَانَ مُصَوِّبًا لَهُ فِي ذَلِكَ الدِّينِ، وَتَصَوُّبُ الْكُفْرِ كُفْرٌ وَالرِّضَا بِالْكَفْرِ كُفْرٌ، فَيَسْتَحِيلُ أَنْ يَبْقَى مُؤْمِنًا مَعَ كَوْنِهِ بِهَذِهِ الصِّفَةِ. فَإِنْ قِيلَ: أَلَيْسَ أَنَّهُ تَعَالَى قَالَ: وَمَنْ يَفْعَلْ ذَلِكَ فَلَيْسَ مِنَ اللَّهِ فِي شَيْءٍ وَهَذَا لَا يُوجِبُ الْكُفْرَ فَلَا يَكُونُ دَاخِلًا تَحْتَ هَذِهِ الْآيَةِ، لِأَنَّهُ تَعَالَى قَالَ: يَا أَيُّهَا الَّذِينَ آمَنُوا فَلَا بُدَّ وَأَنْ يَكُونَ خَطَابًا فِي شَيْءٍ يَبْقَى الْمُؤْمِنُ مَعَهُ مُؤْمِنًا ثَانِيهَا: الْمُعَاشَرَةُ الْجَمِيلَةُ فِي الدُّنْيَا بِحَسَبِ الظَّاهِرِ، وَذَلِكَ غَيْرُ مَمْنُوعٍ مِنْهُ.

وَالْقِسْمُ الثَّالِثُ: وَهُوَ كَالْمَتَوَسِّطِ بَيْنَ الْقِسْمَيْنِ الْأَوَّلَيْنِ هُوَ أَنَّ مُوَالَاةَ الْكُفَّارِ مَعْنَى الرُّكُونِ إِلَيْهِمْ وَالْمَعُونَةُ، وَالْمُطَاهَرَةُ، وَالنُّصْرَةُ إِمَّا بِسَبَبِ الْقَرَابَةِ، أَوْ بِسَبَبِ الْمَحَبَّةِ مَعَ اِغْتِقَادِ أَنْ دِينَهُ بَاطِلٌ فَهَذَا لَا يُوجِبُ الْكُفْرَ إِلَّا أَنَّهُ مَنُهِى عَنْهُ، لِأَنَّ الْمُوَالَاةَ بِهَذَا الْمَعْنَى قَدْ تَجَرَّهَ إِلَى اسْتِخْصَانِ طَرِيقَتِهِ وَالرِّضَا بِدِينِهِ، وَذَلِكَ يُخْرِجُهُ عَنِ الْإِسْلَامِ فَلَا جَرَمَ هَذَا اللَّهُ تَعَالَى فِيهِ فَقَالَ: وَمَنْ يَفْعَلْ ذَلِكَ فَلَيْسَ مِنَ اللَّهِ فِي شَيْءٍ.

فَإِنْ قِيلَ: لَمْ لَا يَجُوزُ أَنْ يَكُونَ الْمُرَادُ مِنَ الْآيَةِ النَّهْيُ عَنِ اتِّخَاذِ الْكَافِرِينَ أَوْلِيَاءَ مَعْنَى أَنْ يَتَوَلَّوْهُمْ دُونَ الْمُؤْمِنِينَ، فَأَمَّا إِذَا تَوَلَّوْهُمْ وَتَوَلَّوْا الْمُؤْمِنِينَ مَعَهُمْ فَذَلِكَ لَيْسَ مَنُهِى عَنْهُ، وَأَيْضًا فَقَوْلُهُ لَا يَتَّخِذِ الْمُؤْمِنُونَ الْكَافِرِينَ أَوْلِيَاءَ فِيهِ زِيَادَةٌ مَرْتَبَةً، لِأَنَّ الرَّجُلَ قَدْ يُوَالِي غَيْرَهُ وَلَا يَتَّخِذُهُ مُوَالِيًا فَالنَّهْيُ عَنِ اتِّخَاذِهِ مُوَالِيًا لَا يُوجِبُ النَّهْيَ عَنْ أَضَلِّ مَوْلَانِهِ.

(مفاتيح الغيب للرازي، سورة آل عمران، ٨٢)؛

لَا بَأْسَ بِأَنْ يَكُونَ بَيْنَ الْمُسْلِمِ وَالذِّمِّيِّ مُعَامَلَةٌ إِذَا كَانَ مِمَّا لَا بُدَّ مِنْهُ كَذَا فِي السَّرَاجِيَّةِ

(الفتاوى العالمية، ج ٥، ص ٨٤٣، مكتبة رشيدية)؛

وَلَا بَأْسَ بِمُصَافَحَةِ الْمُسْلِمِ جَارَهُ النَّصْرَانِي إِذَا رَجَعَ بَعْدَ الْعَيْبَةِ وَتَبَادَى بِتَرْكِ الْمُصَافَحَةِ كَذَا فِي الْقُنْيَةِ وَلَا بَأْسَ بِعِيَادَةِ الْيَهُودِيِّ وَالنَّصْرَانِيِّ فِي الْمَجُوسِيِّ اخْتِلَافًا كَذَا فِي التَّهْذِيبِ وَيَجُوزُ عِيَادَةُ الذِّمِّيِّ كَذَا فِي التَّنْبِيهِ (الفتاوى العالمية، ج ٥، ص ٨٤٣، مكتبة رشيدية)؛

(و) جاز (عيادته) بالإجماع وفي عيادة المجوسي قولان

(قوله وجاز عيادته) أي عيادة مسلم ذميا نصرانيا أو يهوديا، لأنه نوع بر في حقهم وما نهينا عن ذلك، وصح أن النبي الله «عاد يهوديا مرض بجواره» هداية (قوله وفي عيادة المجوسي قولان) قال في العناية فيه اختلاف المشايخ فمنهم من قال به، لأنهم أهل الذمة وهو المروى عن محمد، ومنهم من قال هم أبعد عن الإسلام من اليهود والنصارى، ألا ترى أنه لا تباح ذبيحة المجوس ونكاحهم اهـ قلت: وظاهر المتن كالملتقى وغيره اختيار الأول لإرجاعه الضمير في عيادته إلى الذمي ولم يقل عيادة اليهودي والنصراني، كما قال القدوري وفي النوادر جار يهودي أو مجوسي مات ابن له أو قريب ينبغي أن يعزبه، ويقول أخلف الله عليك خيرا منه، وأصلحك وكان معناه أصلحك الله بالإسلام يعني رزقك الإسلام ورزقك ولدا مسلما كفاية (رد المحتار علي الدر المختار، ج ٦، ص ٨٨٣، إيج ايم سعيد كمبني)؛

(وَعِيَادَتُهُ) يَعْنِي تَجَوُّزُ عِيَادَةِ الذِّمِّيِّ الْمَرِيضِ لِمَا رُوِيَ أَنَّ «يَهُودِيًّا مَرِضَ بِجَوَارِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ قَوْمُوا بِنَا نَعُودُ جَارَنَا الْيَهُودِيَّ فَقَامُوا وَدَخَلَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَعَدَ عِنْدَ رَأْسِهِ، وَقَالَ لَهُ: قُلْ أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ، وَأَنْ مُحَمَّدًا رَسُولُ اللَّهِ فَتَنَظَرَ الْمَرِيضُ إِلَى أَبِيهِ فَقَالَ أَجِبْنِي فَتَنَطَّقْ بِالشَّهَادَةِ فَقَالَ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الْحَمْدُ لِلَّهِ الَّذِي أَنْقَذَنِي نَسَمَةً مِنَ النَّارِ» الْحَدِيثُ وَلَآنَ الْعِيَادَةُ نَوْعٌ مِنَ الْبِرِّ وَهِيَ مِنْ مَحَاسِنِ الْإِسْلَامِ فَلَا بَأْسَ بِهَا...وَفِي التَّوَالِي: وَلَا بَأْسَ بِأَنْ يَصِلَ الرَّجُلُ الْمُسْلِمُ الْمُشْرِكَ قَرِيبًا كَانَ أَوْ بَعِيدًا مُحَارَبًا كَانَ أَوْ ذِمِّيًّا، وَأَرَادَ بِالْمُحَارِبِ الْمُسْتَأْمَنَ قَائِمًا إِذَا كَانَ غَيْرَ مُسْتَأْمَنٍ فَلَا يَنْبَغِي لَهُ أَنْ يَصِلَهُ بَنِيٌّ وَفِي الذَّخِيرَةِ إِذَا كَانَ حَرْبِيًّا فِي دَارِ الْحَرْبِ وَكَانَ الْحَالُ حَالِ صَلَاحٍ فَلَا بَأْسَ بِأَنْ يَصِلَهُ وَاخْتَلَفُوا هَلْ يَكْرَهُ لَنَا أَنْ نَقْبَلَ هَدِيَّةَ الْمُشْرِكِ أَوْ لَا نَقْبَلَ، ذَكَرَ فِيهِ قَوْلَانِ وَفِي فَتَاوَى أَهْلِ سَمَرْقَنْدَ: مُسْلِمٌ دَعَا نَصْرَانِيًّا إِلَى دَارِهِ ضَيْفًا حَلَّ لَهُ أَنْ يَذْهَبَ مَعَهُ (البحر الرائق، ج ٨، ص ٤٠٢، إيج ايم سعيدي كمبني)

Al-Quran, 16:25

Ma'ariful Quran, "Da'wah and Tabligh: Principles and Curriculum", Surah an-Nahl, verse 25
Al-Jāmi' Li Ahkām al-Quran of Imam al-Qurtubī, vol. 10, pg. 450, Darul Hadith
Ibid., 175

Ma'ariful Quran, "An Offer by the Infidel's of Makkah to the Holy Prophet", Surah Fussilat, verses 1-8

ذكر من قال ذلك: حدثنا أبو كريب، قال: ثنا يونس بن بكير، عن محمد بن إسحاق، قال: ثني شيخ من أهل مصر، قدم منذ بضع وأربعين سنة، عن عكرمة، عن ابن عباس، فيما يروي أبو جعفر الطبري (1) قال: بعثت قريش النضر بن الحارث، وعقبة بن أبي معيط إلى أحيار يهود بالمدينة، فقالوا لهم: سلوهم عن محمد، وصقوا لهم صفته، وأخبروهم بقوله، فإنهم أهل الكتاب الأول، وعندهم علم ما ليس عندنا من علم الأنبياء، فخرجوا حتى قدما المدينة، فسألوا أحيار يهود عن رسول الله صلى الله عليه وسلم، ووصفوا لهم أمره وبعض قوله، وقالوا إنكم أهل التوراة، وقد جئناكم لتخبرونا عن صاحبنا هذا، قال: فقالت لهم أحيار يهود: سلوه عن ثلاث تأمركم بهن، فإن أخبركم بهن فهو نبي مرسل، وإن لم يفعل فالرجل متقول، قرأوا فيه رأيكم: سلوه عن فتية ذهبوا في الدهر الأول، ما كان من أمرهم فإنه قد كان لهم حديث عجيب. وسلوه عن رجل طواف، بلغ مشارق الأرض ومغاربها، ما كان نبؤه؟ وسلوه عن الروح ما هو؟ فإن أخبركم بذلك، فإنه نبي فأتبعوه، وإن هو لم يخبركم، فهو رجل متقول، فاصنعوا في أمره ما بدا لكم. فأقبل النضر وعقبة حتى قدما مكة على قريش، فقالا يا معشر قريش: قد جئناكم بفصل ما بينكم وبين محمد، قد أمرنا أحيار يهود أن نسأله، عن أمور، فأخبروهم بها، فجاءوا رسول الله صلى الله عليه وسلم، فقالوا: يا محمد أخبرنا، فسلأوه عما أمروهم به، فقال لهم رسول الله صلى الله عليه وسلم: أخرجكم غداً بما سألتكم عنه، ولم يستثن فأنصرفوا عنه، فمكث رسول الله صلى الله عليه وسلم خمس عشرة ليلة، لا يحدث الله

إليه في ذلك وحيا، ولا يأتيه جبرائيل عليه السلام، حتى أرحف أهل مكة وقالوا: وَعَدَنَا مُحَمَّدٌ غَدًا، واليوم خمس عشرة قد أصبحنا فيها لا يخبرنا بشيء مما سألناه عنه، وحتى أحزن رسول الله صلى الله عليه وسلم مُكَّتُ الوحي عنه، وشقَّ عليه ما يتكلم به أهل مكة، ثم جاءه جبرائيل عليه السلام، من الله عزَّ وجلَّ، بسورة أصحاب الكهف، فيها معاتبته إياه على حزنه عليهم وخبر ما سألوه عنه من أمر الفتية والرجل الطواف، وقول الله عزَّ وجلَّ (وَيَسْأَلُونَكَ عَنِ الرُّوحِ قُلِ الرُّوحُ مِنْ أَمْرِ رَبِّي وَمَا أُوتِيتُمْ مِنَ الْعِلْمِ إِلَّا قَلِيلًا) [قال ابن إسحاق: فبلغني أن رسول الله صلى الله عليه وسلم افتتح السورة فقال (الْحَمْدُ لِلَّهِ الَّذِي أَنْزَلَ عَلَى عَبْدِهِ الْكِتَابَ) يعني محمدا إنك رسولي في تحقيق ما سألوا عنه من نبوته (وَلَمْ يَجْعَلْ لَهُ عِوَجًا قَبِيًّا) : أي معتدلا لا اختلاف فيه.

(جامع البيان للطبري، ج ٩ (الجز ٥١)، ص ١٩١، دار الفكر)

Al-Quran, 26:18-31

Al-Quran, 21:58-68

Al-Quran, 2:258

Al-Quran, 19: 41-47

إِذَا كَانَ فِي الْمَسْأَلَةِ وُجُوهٌ تُوجِبُ الْكُفْرَ وَوَجْهٌ وَاحِدٌ يَمْتَنِعُ فَعَلَى الْمُفْتِي أَنْ يَمِيلَ إِلَى ذَلِكَ الْوَجْهِ كَذَا فِي الْخُلَاصَةِ فِي الْبَرَازِيَةِ إِلَّا إِذَا صَرَّحَ بِإِرَادَةِ تُوجِبُ الْكُفْرَ فَلَا يَنْفَعُهُ التَّأْوِيلُ حِينَئِذٍ كَذَا فِي الْبَحْرِ الرَّائِقِ ثُمَّ إِنْ كَانَتْ نِيَّةُ الْقَائِلِ الْوَجْهَ الَّذِي يَمْتَنِعُ التَّكْفِيرَ فَهُوَ مُسْلِمٌ وَإِنْ كَانَتْ نِيَّتُهُ الْوَجْهَ الَّذِي يُوجِبُ التَّكْفِيرَ لَا تَنْفَعُهُ قُوَى الْمُفْتِي

(الفتاوى الهندية، ج ٢، ص ٣٨٢، مكتبة رشيدية)

وَفِي التَّائِيْدَةِ يُكْرَهُ لِلْمُسْلِمِ الدُّخُولُ فِي الْبَيْعَةِ وَالْكَيْسَةِ، وَإِنَّمَا يُكْرَهُ مِنْ حَيْثُ إِنَّهُ مَجْمَعُ الشَّيَاطِينِ لَا مِنْ حَيْثُ إِنَّهُ لَيْسَ لَهُ حَقٌّ الدُّخُولُ أَهْلَ قَالَ فِي الْبَحْرِ: وَالظَّاهِرُ أَنَّهَا تَحَرِيْمٌ، لِأَنَّهَا الْمُرَادَةُ عِنْدَ إِطْلَاقِهِمْ، وَقَدْ أَقْتَنَيْتُ بِتَعْزِيرِ مُسْلِمٍ لَأَزَمَ الْكَيْسَةَ مَعَ الْيَهُودِ أَهْلَ فَإِذَا حَرَّمَ الدُّخُولَ فَالصَّلَاةُ أَوَّلَى، وَبِهِ ظَهَرَ جَهْلٌ مَنْ يَدْخُلُهَا لِأَجْلِ الصَّلَاةِ فِيهَا.

(رد المحتار علي الدر المختار، ج ١، ص ٨٣، إيج ايم سعيد كمبني)

و مثل هذا في الهندية، ج ٥، ص ٦٤٣، مكتبة رشيدية

Al-Quran, 5:3

Al-Quran, 33:45-47

Ibid., 48

Al-Bidāyah w'an Nihāyah, vol. 1, pg. 15, Dar Ibn Rajab

Al-Quran, 49:12

Al-Quran, 6: 164-165

WHAT IS QADAR AND WHAT IS TAWFIQ?

Q: In answer to one of my queries you have mentioned below: “It is also important to remember that as much as we want someone to accept Islam, it is Allah Ta’ala who will accept those whom He wills.” I believe this. But one thing I cannot understand- If someone will have the tawfiq to accept Islam if Allah wills then for which reason he will be rewarded hereafter? And reversely if anyone do not

have the tawfiq to accept Islam then for which reason he will be punished? Similar question: After attending Islamic Majlis we often used to say –Alhamdulillah, Allah ta’ala has given us tawfiq, so that we have the ability to attend. Then why it will be reward able to attend the Majlis. I have no doubt about justice of Allah ta’ala. These are simple queries for which I could not find out answers.

A: You need to look at predestination (qadar) and divine success (tawfiq) separately as they are two separate things.

Qadr refers to the perfect and absolute knowledge of Allah. He knows everything ahead of time. Having knowledge of someone does not mean Allah has imposed His will against someone and deprived him of his independent will. To understand the issue of qadar in a simple way, consider the following example:

Zayd and Ahmad were sitting and talking about some important work that they need done. These two saw two other men coming towards them. Zayd said, “Let’s ask these two if they can do this work.” When Ahmad looked up and saw them, he recognized both of them and said, “The man on the right wearing white will be able to do this work, but the one on the left in green will not.”

Zayd asked, “How do you know that?” Ahmad replied, “From my personal experience.” Zayd said, “If you’re so sure, put it down on paper so you can’t deny it later on.” So Ahmad wrote down what he had said regarding the two men and sealed the paper in an envelope.

When the two men came and sat near them, Zayd and Ahmad requested each one of them to help them in their work. Just as Ahmad had said, the one in the green excused himself saying he would not be able to do the work as he was busy. The man in the white, though, said he would be more than happy to help them out.

Since what Ahmad had said was true, he began telling Zayd, “I should get some kind of reward since I what I wrote down about these two was right. I told you that he was going to do it, while the other was not,” and he began waving the paper on which he had written that information down. When the man in the green saw that, he became angry and said, “See, you had written this down from before that I was not going to do it and that is why I did not do it!”

If you think about this man’s response, would anybody accept that that he didn’t do the work because Ahmad had already written down that he wouldn’t?

So just as that man’s answer corresponded with Ahmad’s opinion of him, every person has a choice but Allah already knows what every person will do and when he will do it right down to the minutest details. All this has already been written down. [This is just an example to understand whereas in reality no one’s knowledge or experience can ever compare with that of Allah, and for Him is the highest description.

If a person’s personal experience or perspective based on 10 years on 20 years of work in a given field can be right many times, then just think of the supreme and perfect knowledge of Allah, the All-Knowing, the All-Seeing.

Another simple way to understand this is to look at our ability to see or hear. This is from Allah. However, there are limits to our seeing and hearing. If there is an obstacle in the way like a wall or a barrier we cannot see beyond that point. So, while there are certain limits to our seeing and hearing, we still have a certain degree of control over what we see and what we hear. In the same way, we have control over the choices we make even if it is not absolute control.

Based on this you can now understand that reward and punishment, heaven and hell, all these make clear that our ability to choose a particular course of action (good or bad) is not finished or taken away. Rather, whatever action we do corresponds exactly with what Allah already knows is going to happen and Allah bringing into existence what he already knows is going to happen is predestination (qadar).

Your second question concerns tawfiq. Tawfiq is that divine success and favor from Allah without which one cannot perform a good deed or even if he performs it it will lack sincerity in which case it will not have any value. How and why is tawfiq granted sometimes and not at other times? Why are some given more and some less?

The spiritual teacher, Shafiq al-Balkhi (may Allah have mercy upon him) has provided deep insight about this in the following statement: The door of tawfiq has been closed on the people because of six things:

- *They busy themselves with the blessing bestowed upon them and forget about giving thanks (shukr) for it.*
- *They desire knowledge but don't practice upon it.*
- *They are quick to commit sin but delay repentance.*
- *They keep company of the righteous but deceive themselves when they do not follow in their footsteps (by doing as the righteous do).*
- *The dunya is behind them but they continue to chase after it.*
- *The akhirah is in front of them but they persist in turning away from it.*

It is also recorded that the Prophet Dawud (alayhis salam) had organized his time such that every hour of the day and night, one or another member of his household was engaged in worshipping Allah.

On a certain day Dawud (alayhis salam) mentioned this to Allah, and Allah said, “O Dawud all this comes from My tawfiq. If I do not help you to do it, you cannot do it on your own and one of these days I’m going to leave you on your own.”

Soon, a day came when his entire schedule was shattered and he became involved in resolving a dispute at the time of his worship. At that time no other member of his household was engaged in worship, and Dawud (alayhis salam) recalled the slip of tongue, sought the forgiveness of Allah and fell in prostration.

Now taking the above into account, it is rewardable to perform any good deed because we had a choice and we opted to perform that good deed. At the same time that good deed was not entirely carried out by us alone since we are entirely dependent (fuqara) for all our needs on Allah. Rather, the ability to perform that good deed with sincerity (ikhlas) came from the divine success (tawfiq) which only Allah can grant. Therefore, we praise Allah for the tawfiq, and Allah out of His infinite Mercy also rewards us for the good choice we made. If Allah had left us to our ourselves, we would not have been able to perform that good deed with sincerity (ikhlas) even if we wanted to.

Finally, it should be noted that we should not delve into the depths of taqdir. Allah does not treat anyone unjustly. Keep this in mind and it will bring you serenity and peace of mind regarding taqdir and tawfiq: “...and your Lord treats no one with injustice.”
[Surah al-Kahf, 49]

In dealing with us, apart from Allah being just, He is even Merciful. If Allah has to apply His justice on us, we will never stand up to the

absolute measure of justice of Allah. We will fail in every measure. If we do good deeds through our independent will, we will be rewarded but bear in mind, Allah created all the means for us to do good deeds. If the means were not there, we will never be able to do the good deeds even with the greatest level of sincerity. The reward we receive for the good deeds is actually a bonus from Allah and an expression of Allah's mercy. When a person does wrong, it is by his independent will and in fact Allah has created a deterrent in a human being against his will to commit sins. The deterrent is his Imaan and sense of guilt of doing wrong. When a person commits a sin, it is not only his independent will, he goes against all the deterrents Allah created for him against sinning. Therefore, he will be punished. Again, in this context, he is given a chance to repent and turn to Allah. Even in sinning, Allah is merciful to His slaves. What a loving and kind Allah.

May Allah have mercy upon us against all our sins when we pass away, when we are entrusted in the Qabr, when we are questioned in the Qabr, and when we are raised on the day of Qiyaamah and when we stand before Allah. Oh Allah, have mercy on us. We proclaim your unlimited mercy and forgiveness.

قال شقيق بن إبراهيم أغلق باب التوفيق عن الخلق من ستة أشياء اشتغالهم بالنعمة عن شكرها ورغبتهم [ii] في العلم وتركهم العمل والمسارة إلى الذنب وتأخير التوبة والاغترار بصحة الصالحين وترك الاقتداء بفعالهم وإدبار الدنيا عنهم وهم يتبعونها وإقبال الآخرة عليهم وهم معرضون عنها

الفوائد لابن القيم ، ص. ٧١

معارف القرآن، ١٠٥ / ٧ - ٢٠٥ [iii]

خرج رسول الله صلى الله عليه وسلم على أصحابه وهم يختصمون في القدر فكأنما يُفَقَّأ في وجهه حب الرُّمَّان [vi] من الغضب فقال بهذا أمرتُم أو لهذا خلقتُم تضربون القرآن بعضه ببعض بهذا هلكتم قبلكم قال فقال عبدُ اللهِ بنُ عمرو ما غبَطْتُ نفسي بمجلس تخلُّفْتُ فيه عن رسولِ اللهِ صلى الله عليه وسلم ما غبَطْتُ نفسي بذلك المجلس وتخلُّفني عنه سنن ابن ماجه الرقم: ٥٨

FORCED CONVERSIONS, POLYGAMY & AL-GARANIQ

Q: I am a Catholic Christian and a theologian. I am presently reading the Quran, in English translation of course, and trying to understand Islam. I have a few questions I have asked other Muslims and they either run away from the questions or react defensively. I must emphasize that these are sincere questions, not an attempt to convert you or a “gotcha” as we say. I am sincerely interested in how you rationalize these things.

1. Do you think that God prefers to spread His religion by force and violence against unbelievers (slavery, forced concubinage, even of married women, ransoms, tribute money, decapitations, etc.); how do you respond to those of us who perceive that He is a God of Love who prefers us to love our enemies, do good to those who despise us, and win others by reason to His religion? Such violence seems to be enshrined in the Koran. I am sincerely trying to understand this.

2. Why did Allah prescribe only 4 wives to every Muslim except Muhammad, who was allowed an infinite number.

3. How do you explain the so-called “Satanic Verses”? How could Muhammad be inspired by the devil if he was a true prophet? Why would his words need to be corrected? If he could be deceived once, how do you know he wasn’t deceived later? These are sincere questions and obstacles I see when I study Islam and read the Koran.

A: Thank you for your inquiry. We will proceed to answer your questions one by one.

1.) Your 1st objection is regarding forced conversion.

a.) The Quran clearly states that there is no forced conversion: “There shall be no compulsion in [acceptance of] the religion.” [2:256] The companion, Umar (may Allah be pleased with him) who was the second leader after the demise of the prophet invited an old Christian woman to Islam, but she refused saying she was old and close to death [meaning she did not want to revert to Islam]. Upon this, Umar (may Allah be pleased with him) read the verse quoted above: “There shall be no compulsion in [acceptance of] the religion.” and did not in any way compel or force her inspite being a leader.

Muslims ruled places like Spain and India for hundreds of years. Communities from other countries immigrated to Muslim Spain to escape oppression. Today, the population of both these countries is majority non-Muslim. If conversion by force was sanctioned by the faith or a policy, this would not have been the case. From the above it is abundantly clear that Islam neither compels nor forces anyone to convert. If someone goes against these clear tenets, then the issue is with them and not with Islam.

b.) We are not sure which translation of the Quran you are reading, but it is important to understand that unlike the Bible, the Quran's original text and language are preserved and intact. Therefore for each inquiry we would have to look at the original source to confirm if the translation in fact conforms to the meaning, context and spirit of the verse in its original language. Since you are a theologian, we're sure you realize that the academic integrity of any research is compromised by resorting to translations when the original is preserved.

c.) The rules of tafsir [interpretation of the Quran] say that one part of the Quran explains another. It would be dishonest and deceptive to isolate a verse and then proceed to take it out of context by disregard-

ing both the reason and background of its revelation. Likewise, not taking into account other relevant verses and the statements of the Prophet (salallahu alayhi wa sallam) [hadith] that explain that specific verse would also be erroneous and shoddy scholarship. Unfortunately, it seems you have utterly misunderstood the Quran when you say that “such violence seems be enshrined in the Koran.”

To make our point clearer, we could give the same illusion about the Bible by quoting only those verses that mention violence or religious compulsion:

“Slaughter the old men, the young men and women, the mothers and children, but do not touch anyone who has the mark. Begin at my sanctuary.” So they began with the old men who were in front of the temple.” [Ezekial 9:6]

“Now go, attack the Amalekites and totally destroy all that belongs to them. Do not spare them; put to death men and women, children and infants, cattle and sheep, camels and donkeys.” [1 Samuel, 15:3] “Now kill all the boys. And kill every woman who has slept with a man, but save for yourselves every girl who has never slept with a man.” [Numbers 31:17-18] “The people of Samaria must bear their guilt, because they have rebelled against their God. They will fall by the sword; their little ones will be dashed to the ground, their pregnant women ripped open.” [Hosea 13:16] From Deuteronomy [13: 6-10]:

6: If your very own brother, or your son or daughter, or the wife you love, or your closest friend secretly entices you, saying, “Let us go and worship other gods” (gods that neither you nor your ancestors have known,

7: gods of the peoples around you, whether near or far, from one end of the land to the other),

8: do not yield to them or listen to them. Show them no pity. Do not spare them or shield them.

9: You must certainly put them to death. Your hand must be the first in putting them to death, and then the hands of all the people.

10: Stone them to death, because they tried to turn you away from the LORD your God, who brought you out of Egypt, out of the land of slavery. From Deuteronomy [17: 2-5]

2: If a man or woman living among you in one of the towns the LORD gives you is found doing evil in the eyes of the LORD your God in violation of his covenant,

3: and contrary to my command has worshiped other gods, bowing down to them or to the sun or the moon or the stars in the sky,

4: and this has been brought to your attention, then you must investigate it thoroughly. If it is true and it has been proved that this detestable thing has been done in Israel,

5: take the man or woman who has done this evil deed to your city gate and stone that person to death.

d.) If a person goes against the tenets of his faith it should not give others the right to criticize and censure the faith itself – otherwise the same could be said about other religions:

John Paul II, has acknowledged that the Catholic Church was involved in anti-semitism, the Inquisition, the forced conversions of

the people of Africa and Latin America, the Church's support for the Crusades and so on. It is evident that that victims were both Muslims and non-Muslims. Would you then say that your faith is responsible for all these horrific episodes or was it the people that went against the tenets of your faith by justifying such acts from the Bible? Where did "win others by reason to His religion" go in the above-mentioned events as mentioned in your inquiry?

e.) As mentioned earlier, history bears witness that Muslims conquered Spain (known as Al-Andalus) and ruled it for hundreds of years. If they wanted, just a generation was enough to convert by force so that the succeeding generation would know nothing of its original religion. But that's not what happened, and Muslims, Christians and Jews lived in relative social harmony during this long period of Muslim rule.

Here's what happened during the Inquisition, when Christian rule came to Spain:

→ In Valencia, the Muslims had to give a tribute of 40,000 ducats so that they would not be persecuted.

→ In the year 1499, when Archbishop of Toledo took charge of the Granada mission as part of the Inquisitions and a program of forced conversions, mass baptisms, and a violent persecution of the Muslims followed. Adherence to Islamic customs became a punishable offence.

→ This Archbishop, Cisernos, starting sending Muslims who would not convert to prisons where they were treated with what his own hagiographer describes as "methods that were not correct" until they agreed to convert.

→ The Archbishop boasted to the then Pope Alexander IV, that 3,000 Muslims had converted in a single day. They were forcing them to

convert with such methods that they did not even have time to take them to baptismal font, instead, they had to splash the water on them. His methodology can best be described in his own words: “If the infidels [by infidels he is referring to Muslims] couldn’t be attracted to the road to salvation they had to be dragged to it.”

→ In the town of Jatvia, hundreds of Muslims were dragged to the main cathedral and ordered to choose between baptism or death.

→ In Gandia, Muslims were given the option to choose between baptism or having their throats cut. So many Muslims were forcefully baptized that they had to be sprinkled with water from tree branches dipped into irrigation canals.

→ In the town of Malaga, Muslims were tied to stakes and killed with cane spears in a cruel variant of the jousting competition known as the juego de canas. In addition, virtually the entire remaining population of Muslims in this town was enslaved or given as “gifts” to Christian rulers.

→ For all their achievements, the then monarchs of Spain, Ferdinand and Isabella were hailed as heroes and rewarded by the pope with the title of los reyes catolicos – the Catholic Monarchs.

→ Between 1609 and 1614, King Philip III ordered the expulsion of the entire Muslim population of Spain which had by now been forcefully converted (estimated at 350,000 men, women and children over the age of seven). They were removed forcibly from their own homes and country and their assets seized. Children under seven were separated from their families and not allowed to go with their fathers and mothers. That makes it the largest removal of a civilian population in European history and larger than Spain’s previous expulsion of the Jews. All this was the idea of a religious leader, the Archbishop of Valencia, Juan de Ribera.

2.) Your second question is regarding the multiple wives of the Prophet (salallahu alayhi wa sallam). There is not only precedent, but wisdom in this. We will suffice with mentioning just a few points for your consideration:

→ His' (salallahu alayhi wa sallam) entire youth was spent with a widow, much older than him, Khadijah (may Allah be pleased with her). Except for Aishah (may Allah be pleased with her) all of the wives were widows, and polygamy only came into the picture after the age of 53. The fact that the multiple marriages only came in the last 10 years of his' (salallahu alayhi wa sallam) life would lead any open-minded, impartial reader to realize that they were not done to fulfill any carnal desires.

→ The Prophet (salallahu alayhi wa sallam) married women from different tribes to establish peaceful relations so that Islam would spread by them coming to know his (salallahu alayhi wa sallam) true, noble, and pure character.

→ Muslims were limited to four because of the fear of injustice whereas there was no such fear in terms of the Prophet's (salallahu alayhi wa sallam) treatment towards his wives.

→ Just as information about his external activities was reported by the Companions (may Allah be pleased with them), similarly information about his domestic life was reported by his wives. Since spouses see and know each other's nature unlike anyone else, multiple accounts of the prophetic life inside the home were needed. This information also needed to come from multiple sources (i.e. to reach a degree known as *tawatur*: multiple transmissions with the highest degree of confirmation). Since the minimum set for this is at 10, that is why the number of his wives reached 10. The wisdom of this is even more self-evident when we see that approximately half of the faith was conveyed through the wives (may Allah be pleased with them).

→ By virtue of being in the Prophet's (salallahu alayhi wa sallam) company, the wives (may Allah be pleased with them) would learn a lot and in turn become teachers of the Muslim community. As an example: Aishah (may Allah be pleased with her) was a teacher to 200 companions and she narrated 2,210 hadith. Umm Salamah (may Allah be pleased with her) had issued enough legal rulings that they could be compiled in a separate book and she narrated 368 hadith.

→ It is also strange that this question is not raised about other Prophets (peace be upon them) whom the Bible itself records as having multiple wives. In the Bible it states the following about Sulayman (peace be upon him) (Solomon), He had seven hundred wives of royal birth and three hundred concubines...[1 Kings 11:3]. Did everybody in his kingdom have 700 wives and 300 concubines?

→ Likewise the Bible states about Dawud (peace be upon him) (David), that he had 6 wives in Hebron and that after he left Hebron, he took more concubines and wives in Jerusalem. [2 Samuel 3:2-5] and [2 Samuel 5:13] Again the question arises, did everybody in his kingdom have 6+ wives and concubines?

3.) Your 3rd question refers to a fabricated event in history that has been coined by a missionary as "Satanic Verses." This question stems from a lack of understanding and is a regurgitation of what has been repeated by ignorant people who think these are verses from the Quran. In reality, there are no such verses mentioned in the Quran. In fact, if you find them feel free to send them to us.

Now in all probability you are referring to a spurious and contrived incident recorded in some history books called "The cranes" [al-Garaniq] where some verses containing polytheism were allegedly recited to placate the disbelievers.

Before we clarify this, understand that Muslims have entire books devoted to forged hadith [prophetic statements]. Everything was meticulously compiled including the people who narrated these state-

ments so later generations can easily tell who the person narrated it and what credibility they had. You see, any statement of the Prophet (salallahu alayhi wa sallam) needs to have a sanad (chain of transmission) whose authenticity, or the lack thereof is known.

So the very fact that anyone knows about these alleged “verses” is because they come from our own history books. This in fact is proof of the transparency of Islam, where scholars recorded all kinds of information no matter how preposterous a lie it was.

To give you an example of why we do this: Sometimes if you walk into a store, they have some fake currency displayed or bad cheques that didn't clear the bank on the wall as a sign of what went wrong. This is obviously not there because they consider it an award, rather it's to make the store clerk aware of fake and fraudulent ways of payment. It is also to make the customers aware that the store will be on the lookout for fake currency. Similarly, scholars recorded all events with chains of transmissions wherever available as a guidance and caution for current and future generations. This way we can easily prove or disprove the veracity of events that took place at that time.

Now keeping all the above in mind, let's look at the status of those narrations (which as we said above are not part of the Quran, but come in our history books):

a.) Mufti Shafi (may Allah have mercy on him), one of the expert scholars of the latter times has clearly stated that the event of al-Garaniq is not established from any authentic narration. In fact, some scholars have written that this is a clear fabrication of heretics.

b.) From the earlier times, the hadith specialist, al-'Ayni (may Allah have mercy on him) has analyzed the chains of narrations concerning this event and declared them all to be defective and unacceptable according to the science of evaluating hadith.

c.) Imam al-Shawkani (may Allah have mercy on him), in his commentary on the Quran [tafsir] has stated that this event is false and not established in any way. He has also narrated the rulings of a number of other expert scholars in Quran and hadith :

Al-Bazzar (may Allah have mercy on him): We don't know of this narration coming to us in any uninterrupted chain of transmission back to the Prophet (salallahu alayhi wa sallam).

Al-Bayhaqi (may Allah have mercy on him): This event is not authentic and proceeded to show that the narrators are discredited and unreliable. Ibn Khuzaymah (may Allah have mercy on him): This is a fabrication of heretics.

Ibn Kathir (may Allah have mercy on him): I have not seen this event narrated from any authentic connected chain. Rather they are all mursal (the generation of the Companions is missing from all the chains of transmission). Now you have leading authorities in tafsir [interpretation of the Quran] and hadith [statements of the Prophet – salallahu alayhi wa sallam] making it clear that not only are the narrators discredited and unreliable but that one entire generation [the Companions] that would have been eye-witnesses to the alleged event missing from all the chains of transmission.

c.) One of the main sources where this story is found is al-Tarikh [a history book] of al-Tabari (may Allah have mercy on him) and he himself has clearly stated in the introduction : *“Let him who examines this book of mine know that I have relied, as regards everything I mention therein which I stipulate to be described by me, solely upon what has been transmitted to me by way of reports which I cite therein and traditions which I ascribe to their narrators, to the exclusion of what may be apprehended by rational argument or deduced by the human mind, except in very few cases. This is because knowledge of the reports of men of the past and of contemporaneous views of men of the*

present do not reach the one who has not witnessed them nor lived in their times except through the accounts of reporters and the transmission of transmitters, to the exclusion of rational deduction and mental inference. Hence, if I mention in this book a report about some men of the past, which the reader or listener finds objectionable or worthy of censure because he can see no aspect of truth nor any factual substance therein, let him know that this is not to be attributed to us but to those who transmitted it to us and we have merely passed this on as it has been passed on to us.”

So the purpose of relating this event was not to show that it actually took place, but just to relate all stories and events that came down to the historians by whatever narrations and chains – and that included fabricators, liars and those who have been declared weak.

d.) The fact that the disbelievers of Makkah did not raise an issue about this event is also strong evidence that this event never took place. They raised a big issue about the Night-Journey of Rasulullah (salallahu alayhi wa sallam). Surely, had this event actually occurred, this was something that they would not have neglected to seize upon, and Islamic sources would have faithfully recorded that – just like they did everything else – like the objection of the disbelievers to the Night-Journey.

e.) Even Orientalists, such as J. Burton have concluded that this event has no historical basis and is likely, a later fabrication.

In conclusion, all we request from you as a theologian is that in your study of the Quran and Islam you should apply the same fairness and impartiality that you would want and expect from anyone studying Christianity.

Just as you would not want anyone studying Christianity to segregate those verses we mentioned above, neither should you do the same if you sincerely wish to understand the Quran and Islam. Why don't you judge others in the same way you like to be judged? Doesn't the Bible say: "For in the same way you judge others, you will be judged, and with the measure you use, it will be measured to you. Why do you look at the speck of sawdust in your brother's eye and pay no attention to the plank in your own eye? How can you say to your brother, 'Let me take the speck out of your eye,' when all the time there is a plank in your own eye?" [Matthew, 7:2-4]

In conclusion, we appreciate your sincerity. This is a condition of the heart and is best known to yourself and God. God appreciates the honest quest of His sincere slaves and guides them to eternal salvation. We sincerely urge you to focus on the path of your eternal salvation which we believe is Islam. Let your rationale prevail over your emotions and follow the quest of the ultimate truth.

معارف القرآن ٧١٦ / ١ - ٧١٦ [i]

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معارف القرآن، ٧٥١ / ٧ و ٣٩١ - ٤٩١ [iiv]

إنما منع غيره من الزيادة على أربع خوفاً من عدم العدل، كما أشارت إليه آية فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً [iiiiv]

وهذه العلة مرتفعة في حقه صلى الله عليه وسلم

وقد ذكر شيخ مشايخنا حكيم الأمة التهانوي قدس الله سره حكمة أخرى في كثرة أزواجه صلى الله عليه وسلم، وهي أنه

عليه الصلاة والسلام قد بعث إلى هذا العالم ليكون أسوة حسنة في كل شيء، وليقتدي به أمته في كل ناحية من نواحي

الحياة. وكان يجب لذلك أن لا يخفى على أمته شيء من حياته الفردية

والاجتماعية، وأن تطلع الأمة على أحوال بيته وخلوته بذلك القطع وبذلك الاستفاضة التي اطلعت بها على أحواله خارج البيت. وإن هذه الأحوال لا تكشف على أحد إلا بأزواجه صلى الله عليه وسلم، ولذلك بلغ عدد أزواجه عليه السلام بعد خديجة الكبرى عشرة أزواج، فإن العشر أقل عدد التواتر، ولما بلغ عدد نسائه إلى العشرة نهاه الله تعالى عن الزيادة على هذا العدد، كما قيل في تفسير قوله تعالى: {لَا يَحِلُّ لَكَ النَّسَاءُ مِنْ بَعْدُ}... إلخ وراجع التفسير الكبير... ومما يؤيد ذلك أنه صلى الله عليه وسلم لم يقض شبابه وفتوته إلا مع امرأة ثيبة أسن منه بكثير، مع ما عرضت عليه من صفايا أ Bakar العرب، ولم تكثر أزواجه إلا بعد ما بلغ الثالث والخمسين من عمره. وكانت كلهن ثيبات، سوى عائشة رضي الله عنها. أفهل يفعل ذلك من لا يريد إلا قضاء الشهوة وتسكين الشبق؟ كلا! ثم كلا! وإنما كان غرضه عليه السلام أن تبلغ أحوال بيته إلى الأمة بتلك الاستفاضة التي بلغت بها أحواله خارج البيت، ولم يكن ذلك إلا بأن لا تقل نساءه من عشرة. ولذلك نرى أن نحواً من نصف الدين لا يبلغنا إلا بواسطة أزواجه صلى الله عليه وسلم.

تكملة فتح الملهم، كتاب الرضاع، الحكمة في كثرة أزواجه صلى الله عليه وسلم، ص. ٣١١ - ٤١١

معارف القرآن، ٧٧٢ / ٦ [xi]

وجميع هذه المسانيد الثلاثة لا يحتج بشيء منها: أما الإسناد الأول: وإن كان رجاله ثقات فإن الراوي شك فيه [x] كما أخبر عن نفسه، فلما شك في رفعه، فيكون موقوفاً. وفي وصله فيكون مرسلًا، وكلاهما ليس بحجة خصوصاً فيما فيه قدرح في حق الأنبياء، عليهم الصلاة والسلام، بل لو جزم الثقة برفعه ووصله حملناه على الغلط والوهم، وأما الإسناد الثاني: فإن محمد بن السائب الكلبي ضعيف بالاتفاق، منسوب إلى الكذب، وقد فسر الكلبي في روايته الغرانة العلي: بالملائكة، لا بالآلهة المشركين، كما يقولون: إن الملائكة بنات الله، وكذبوا على الله فرد الله ذلك عليهم بقوله: {ألكم الذكر وله الأنثى} (النجم: 21). فعلى هذا فعله كان قرآناً ثم نسخ لتوهم المشركين بذلك مدح آلهتهم. وأما الإسناد الثالث: فإن محمد بن سعد هو العوفي، وهو ابن سعد بن محمد بن الحسن ابن عطية العوفي، تكلم فيه الخطيب، فقال: كان لنا في الحديث، وأبوه سعد بن محمد بن الحسن بن عطية، قال فيه أحمد: لم يكن ممن يستأهل أن يكتب عنه، ولا كان موضعاً لذلك، وعم أبيه: هو الحسين بن الحسن بن عطية، ضعفه ابن معين والنسائي وابن حبان وغيرهم، والحسن بن عطية ضعفه البخاري وأبو حاتم، وهذه سلسلة ضعفاء، ولعل عطية العوفي سمعه من الكلبي فإنه كان يروي عنه ويكنيه بأبي سعيد لضعفه، ويوهم أنه: أبو سعيد الخدري، وقال عياض: هذا حديث لم يخرج به أحد من أهل الصحة. ولا روة ثقة بسند سليم متصل، وإنما أولع به ومثله المفسرون، والمؤرخون المولعون بكل قريب، المتلقنون من الصحف كل صحيح وسقيم. قلت: الأمر كذلك، فإن غالب هؤلاء مثل الطرقيّة والقصاص وليس عندهم تمييز، يخطون خط عشاء، ويمشون في ظلمة ظلماء، وكيف يقال مثل هذا والإجماع منعقد على عصمة النبي صلى الله عليه وسلم ونزاهته عن مثل هذه الرذيلة؟ ولو وقعت هذه القصة لوجدت قريش على المسلمين بها الصولة، ولأقامت عليهم اليهود بها الحجة، كما علم من عادة المنافقين وعناد المشركين، كما وقع في قصة الإسراء حتى كانت في ذلك لبعض الضعفاء ردة

عمدة القاري، ١٠١ / ٧ - ١٠١

[ix] ولم يصح شيء من هذا، ولا ثبت بوجه من الوجوه، ومع عدم صحته بل بطلانه فقد دفعه المحققون بكتاب الله سبحانه، قال الله: ولو تقول علينا بعض الأقاويل - لأخذنا منه باليمين - ثم لقطعنا منه الوتين «3» وقوله: وما ينطق عن الهوى «4» وقوله: ولولا أن ثبتناك لقد كدت تركن إليهم «5» فنفي المقاربة للركون فضلاً عن الركون. قال البزار: هذا حديث لا تعلمه يروي عن النبي صلى الله عليه وسلم بإسناد متصل.

وقال البيهقي: هذه القصة غير ثابتة من جهة النقل، ثم أخذ يتكلم أن رواة هذه القصة مطعون فيهم. وقال إمام الأئمة ابن خزيمة: إن هذه القصة من وضع الزنادقة. قال القاضي عياض في «الشفاء»: إن الأمة أجمعت فيما طريقه البلاغ أنه معصوم فيه من الإخبار عن شيء بخلاف ما هو عليه، لا قصداً ولا عمداً ولا سهواً ولا غلطاً. قال ابن كثير: قد ذكر كثير من المفسرين هاهنا قصة الغرائيق، وما كان من رجوع كثير من المهاجرين إلى أرض الحبشة ظناً منهم أن مشركي قريش قد

أسلموا، ولكنها من طرق كلها مرسلة، ولم أرها مسندة من وجه صحيح.

فتح القدير للشوكاني، ٣/ ٦٤٥

Khalidi, Tarif. Arabic Historical Thought in the Classical Period. Cambridge University Press. 1994 [xii]

وليعلم الناظر في كتابنا هذا أن اعتمادي في كل ما أحضرت ذكره فيه مما شرطت أني راسمه فيه إنما هو على ما [iiix] رويت من الأخبار التي أنا ذاكها فيه والآثار التي أنا مسندها إلى روايتها فيه دون ما أدرك بحجج العقول واستنبط بفكر النفوس إلا اليسير القليل منه إذ كان العلم بما كان من أخبار الماضين وما هو كائن من أنباء الحادثين غير واصل إلى من لم يشاهداهم ولم يدرك زمانهم إلا بإخبار المخبرين ونقل الناقلين دون الاستخراج بالعقول والاستنباط بفكر النفوس فما يكن في كتابي هذا من خبر ذكرناه عن بعض الماضين مما يستنكره قارئه أو يستشعنه سامعه من أجل أنه لم يعرف له وجهها في الصحة ولا معنى في الحقيقة فليعلم أنه لم يؤت في ذلك من قبلنا وإنما أتى من قبل بعض ناقليه إلينا وأنا إنما أديننا ذلك على نحو ما أدي إلينا

تاريخ الطبري، ١/ ٢١

Ali, Mohar Muhammad. Sirat al-Nabi (salallahu alayhi wa sallam) and the Orientalists. 1997 [xiv]

AMINA WADUD AND WOMEN LEADING SALAAH

Q: A Female named Amina Wadud of Usa started to revive the Islamic topic that a female can be Imam and lead prayer in congregation and also deliver Jumma Khutba and lead Jumma prayer as Rasool (pbuh) permitted UMM WARAKA to lead prayer of DAR. Do you think this is a FITNA?

A: At the outset, we will present a brief discussion on the hadīth of Umm Waraqah. Source and Text - There are several versions of this hadīth. Three such versions are presented below:

Imām Ahmad narrates:

Abū Nu‘aym narrated to us, he said: al-Walīd ibn ‘Abdillāh ibn Jumay‘ narrated to us, he said: ‘Abd al-Rahmān ibn Khallād al-Ansārī and

my grandmother narrated to me from Umm Waraqah bint ‘Abdillāh ibn al-Hārith that the Prophet of Allāh (Allah bless him and grant him peace) would visit her every Friday, and that she said on the Day of Badr: “O Prophet of Allāh, do you give me permission to come out with you, and attend to your sick ones and treat your injured, that perhaps Allah may grant me martyrdom?” He said: “Stay (in your house), for verily Allah (Great and Glorious is He) will grant you martyrdom.” She freed a female and male slave upon her death, and it became (overly) long for them, so they suffocated her in a cloak until she died, and they fled. ‘Umar stood amongst the people and he said: “Verily, the Messenger of Allah (Allah bless him and grant him peace) would visit Umm Waraqah, saying: ‘Come, we will visit the martyr.’ And indeed so-and-so, her female slave, and so-and-so, her male slave, have suffocated her and fled. No one should grant them shelter, and whoever finds them must bring them.” They were brought and crucified. They were the first to be crucified. This version of the report has no mention of Salāh, adhān or imāmat. Imām Abū Dāwūd narrates:

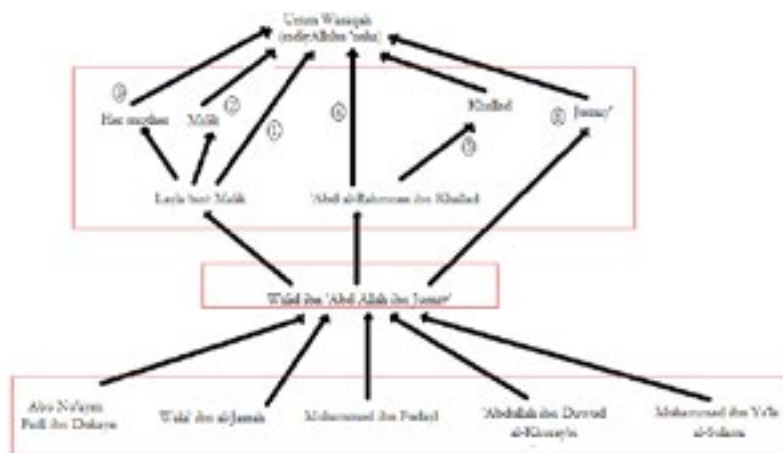
‘Uthmān ibn Abī Shaybah narrated to us: Wakī‘ ibn al-Jarrāh narrated to us: al-Walīd ibn ‘Abdillāh ibn Jumay‘ narrated to us, he said: my grandmother and ‘Abd al-Rahmān ibn Khallād al-Ansārī narrated to me from Umm Waraqah bint ‘Abdillāh ibn Nawfal al-Ansārīyyah that when the Prophet (Allah bless him and grant him peace) fought at Badr, she said: I said: “O Messenger of Allah, permit me (to participate) in the battle with you. I will attend to your sick ones, that Allah may grant me martyrdom.” He said: “Stay in your house, for verily Allah (Exalted is He) will grant you martyrdom.” She used to be called “the martyr.” She would recite the Qur’ān, so she asked permission from the Prophet (Allah bless him and grant him peace) to keep a muezzin in her private land, and he gave her permission. She had freed a male and female slave that belonged to her upon her death, so

they came to her at night and suffocated her with her cloak until she died, and they fled. ‘Umar stood amongst the people in the morning and he said: “Whoever has knowledge of these two or whoever saw them must bring them.” He gave instructions and they were crucified. They were the first to be crucified in Madinah. This version only mentions adhān but not her imāmat.

Imām Ahmad also narrates: Abū Nu‘aym narrated to us, he said: Al-Walīd narrated to us, he said: My grandmother narrated to me: From Umm Waraqah bint ‘Abdillāh ibn al-Hārith al-Ansārī, who had gathered (i.e. memorised) the Qur’ān, and the Prophet (Allāh bless him and grant him peace) would order her to lead the people of her private land (in Salāh), and she had a muezzin, and she would lead the people of her private land. This version mentions both the adhān and the imāmat.

The story of Umm Waraqah is found in the Musnad of Imām Ahmad ibn Hanbal ; the Mussannaf of Imām Ibn Abī Shaybah ; the Sunan of Imām Abū Dāwūd ; the Sunan of Imām al-Dāraquṭnī ; the Saḥīh of Imām Ibn Khuzaymah ; the Mustadrak of Imām al-Hākim ; the Sunan of Imām al-Bayhaqī ; al-Mu‘jam al-Kabīr of Imām al-Tabrānī ; and others.

All the chains of transmission for this report funnel through one narrator, Walīd ibn ‘Abdillāh ibn Jumay‘, as represented in the flowchart below (based on Tuhfat al-Ashrāf and Tahdhīb al-Kamāl of al-Mizzī and al-Nukat al-Zirāf and al-Isābah of al-‘Asqalānī):



In brief, there are 3 layers of transmission:

1. Those who narrated from Walid ibn ‘Abd Allāh ibn Jumay’
2. Walid ibn ‘Abd Allāh ibn Jumay’ himself
3. Those Walid narrated from and beyond

The narrations mention that Umm Waraqa wished to participate in the battle of Badr by attending to the injured fighters, that perhaps she may attain martyrdom. Rasūlullāh (sallAllāhu ‘alayhi wasallam) instructed her to stay in her house and informed her she will be granted martyrdom in her house. She asked permission to have a muezzin call adhān in her private land, which she was allowed. She was also ordered to lead the people of her private land (dār) in Salāh. In the time of ‘Umar (radiyAllāhu ‘anhu), two of her slaves murdered her. They were later caught and crucified. Some of the narrations do not have any mention of the imāmat or adhān, and some only have mention of adhān and not the imāmat. This is the only narration of its kind, which is why al-Hākim said after citing it: *“This is a strange practice. I do not know of a connected hadīth on the subject besides this.”*

Analysis:

With respect to the chain of narration, the reporters of the first layer of transmission are all impeccable masters of hadīth with the exception of Muhammad ibn Ya‘lā al-Sulamī who is an unreliable narrator. The second layer of transmission reveals that the story hinges entirely on Walid ibn ‘Abd Allāh ibn Jumay‘. There is some criticism of him. Although Imāms Ahmad, Yahyā ibn Ma‘īn, Abū Dāwud, Abū Zur‘ah and al-‘Ijlī praised his reliability; Ibn Hibbān included him in his work on unreliable narrators, al-Majrūhīn, and he said: “He was of those who were isolated (in their reports) from firm reporters (in narrating) what does not resemble the narration of trustworthy men. When that is excessive from him, adducing evidence from him is nullified.”

Al-‘Uqaylī said in his work on weak reporters, al-Du‘afā’:

“There is inconsistency in his hadīth.”

We see inconsistency in this very narration of his: Walid narrates the story through a number of different chains (numbers correspond to those in the chart):

1. He sometimes narrates it from his grandmother, Laylā bint Mālīk, who narrates directly from Umm Waraqah
2. He sometimes narrates it from Laylā bint Mālīk who narrates from her father, Mālīk, who narrates from Umm Waraqah
3. He sometimes narrates it from Laylā bint Mālīk who narrates from her mother (name unknown), who narrates from Umm Waraqah
4. He sometimes narrates it from his grandfather, Jumay‘ who narrates from Umm Waraqah
5. He sometimes narrates it from ‘Abd al-Rahmān ibn Khallād who narrates directly from Umm Waraqah
6. And he sometimes narrates it from ‘Abd al-Rahmān ibn

Khallād who narrates from his father, Khallād, who narrates from Umm Warāqah. Moreover, some narrations, as stated above, mention her imāmat and Salāh, and others do not. Inconsistency in a narrator's reports is an indication of weakness. Due to this problematic nature of Walīd and his narrations, Imām al-Hākim said:

“It would have been better if Muslim did not transmit his (hadiths).”

With respect to the third layer of transmission, either the person or the reliability of all the narrators, meaning Walīd's grandfather (Jumay') and grandmother (Laylā bint Mālik), Mālik, 'Abd al-Rahmān ibn Khallād and Khallād, are unknown.

Hence, there are many reasons to regard the narration as unreliable. The team of editors of Musnad Ahmad led by Shaykh Shu'ayb al-Arnā'ūt graded the chains of this report weak upon a detailed analysis.

Imamate of Women:

The vast majority of the scholars have said that the most the narration of Umm Warāqah can prove is the validity of women leading other women in jamā'ah and that it cannot be cited as valid evidence for women leading men in Salāh . Although the hadīth does not specify who she led, it could not have been men because they are required to offer their Salāh in the masjid, not on private land. Describing the situation in the time of the Prophet (sallAllāhu 'alayhi wasallam), 'Abd Allāh ibn Mas'ūd (radiyAllāhu 'anh) said:“Verily, I observed us at a time when none stayed behind from Salāh (in the masjid) besides a hypocrite whose hypocrisy was known or a sick person, and indeed a sick person would walk between two men until he attended the Salāh.” (Sahīh Muslim)

The ‘ulamā’ have mentioned that the view of the validity of women leading men in Salāh is a marginal opinion rejected by almost near-consensus. Ibn Qudāmah writes in his al-Mughnī:

“As for the woman, it is invalid for a man to follow her in any circumstance, in fard or nāfilah, in the view of the totality of the jurists.” Following rare and isolated juristic opinions which were condemned by the vast majority of the ‘ulamā’, such as the validity of women leading men in Salāh, is extremely reckless and against the Islāmic spirit of adopting caution in one’s relationship with Allāh. Imām al-Awzā’ī said: “The one who takes the odd opinions of the scholars leaves Islām.” Sulaymān al-Taymī said: “If you took the slip of every scholar, all evil would gather in you.”

The Fitnah of Amina Wadud:

Amongst the fitnahs of end-times which Rasūlullāh (sallAllāhu ‘alayhi wasallam) foretold is that true knowledge will diminish and ignorance will become widespread. He (sallAllāhu ‘alayhi wasallam) said: *“From the portents of the Hour is ‘ilm will diminish and ignorance will prevail.”* (Sahīh al-Bukhārī)

Rasūlullāh (sallAllāhu ‘alayhi wasallam) also said:

“Verily, Allāh will not take up knowledge by extracting it from (the hearts) of the slaves, but He will take up knowledge by taking (the lives of) the ‘ulamā’, until He leaves no ‘ālim, people will adopt the ignorant as leaders. They will be asked (questions) so will issue (answers) without knowledge. They will be misguided and misguide (others).”

The knowledge that will begin to disappear near the end of times is the authentic teachings passed down from generation to generation amongst the inheritors of Nabī (sallAllāhu ‘alayhi wasallam). This is true knowledge which generates fear of Allāh Ta‘ālā and is transmitted via the hearts of men. It does not refer to mere bookish knowl-

edge. Abdullāh ibn Mas'ūd (radiyAllāhu 'anh) said: *“Knowledge is not from excessive reporting, but knowledge is fear of Allāh.”*

And the scholars would say: *“All who take knowledge from lines (of books alone and not the hearts of men) are misguided and misguide (others).”*

Amina Wadud is one of many modern claimants to Islāmic scholarship and reform. Her views on women-led jamā'ats and khutbahs circumvents the established view of all four madhhabs, and represents her personal “research,” based on her “progressive” leanings. It is not based on an effort to present the authentic and orthodox teachings of Islām. Claimants to Islāmic reform like Amina Wadud represent the prevalence of ignorance and the decay of real knowledge in these end-times.

Muslims must safeguard their imān by keeping themselves aloof from such fitnahs. Refer only to reliable 'ulamā' of Ahlus Sunnah who have maintained the pristine knowledge of revelation passed down with authentic transmission from the time of Nabī (sallAllāhu 'alayhi wasallam) to our time.

مسند الإمام أحمد، مؤسسة الرسالة، ج 45 ص بذل المجهود، دار الكتب العلمية، ج 4 ص 205-7
مسند الإمام أحمد، مؤسسة الرسالة، ج 45 ص 255 مسند أحمد، مؤسسة الرسالة، ج 45 ص 253-6 مصنف ابن أبي شيبة، شركة دار
القبلة، ج 18 ص 219 بذل المجهود في حل سنن أبي داود، دار الكتب العلمية، ج 4 ص 205-9 سنن الدارقطني، مؤسسة الرسالة، ج 2 ص 261
صحيح ابن خزيمة، المكتبة الإسلامية، ص 10-809 مستدرک الحاكم، دار المعرفة، ج 1 ص 203 السنن الكبرى للبيهقي، دار الكتب العلمية، ج
ص 186 المعجم الكبير، مكتبة ابن تيمية، ج 25 ص 134-5
مستدرک الحاكم، دار المعرفة، ج 1 ص كتاب المجروحين من المحدثين، دار الصميعي، ج 2 ص 420
كتاب الضعفاء، دار الصميعي، ص 1441 تهذيب الكمال للزمري، مؤسسة الرسالة، ج 35 ص 395

THE REALITY OF THE SATANIC VERSES

Q: I found the following Hadith, I would like to inquire about its authenticity and meaning - “When the Messenger (blessings and peace of Allah be upon him) was reciting the verses (interpretation of the meaning): “Have you then considered Al-Lat, and Al-Uzza (two idols of the pagan Arabs), And Manat (another idol of the pagan Arabs), the other third?” [an-Najm 53:19, 20], the Shaytaan (Satan) put on his lips the words “These are the exalted gharaaneeq (cranes), whose intercession is hoped for”, and the Prophet (blessings and peace of Allah be upon him) and the mushrikeen prostrated after that! “

A: Here below is a detailed fatwa written by Moulana Zameelur Rahman (Birmingham) on the similar topic.

The “satanic verses” refers to a story reported from the life of Nabī (sallAllāhu ‘alayhi wasallam). The story goes that Rasūlullāh (sal-lAllāhu ‘alayhi wasallam) was reciting Sūrah al-Najm in Makkah in the presence of some idolaters, and when he reached the verses:

“Have you then considered (the idols) al-Lāt and al-‘Uzzā, and Manāt, the other, the third?

The Shaytān caused these words to appear: *“Those are the high cranes, and indeed their intercession is desired.”*

The idolaters appreciated that their idols were mentioned positively, so they fell in prostration. When this caused distress to Rasūlullāh (sallAllāhu ‘alayhi wasallam), these verses were revealed: “We did not send any messenger before you nor a prophet, but when he recited (the revelation), the Shaytān cast (doubts in the hearts of his oppo-

nents) about what he recited. So, Allah nullifies what the Shaytān casts, then Allah makes His verses firm.” (22:52)

This is the outcome of the various accounts in which the story was narrated. The story has been transmitted through a number of chains of transmission which were collected by Ibn al-Mundhir, Ibn Jarīr al-Tabarī, al-Bazzār, Ibn Abī Hātim and others.

This story is not found in any of the well-known collections of hadith. Moreover, although some scholars considered it to have some basis, the vast majority of the scholars of hadith and other fields regarded it as being inauthentic or a baseless forgery. The major imams and scholars who concluded that it is weak or baseless include: Muḥammad ibn Ishāq ibn Khuzaymah, Qādī ‘Iyād, Ibn al-‘Arabī, al-Bayhaqī, Fakhr al-Dīn al-Rāzī, al-Qutubī and Badr al-Dīn al-‘Aynī [4]. The recent scholar of Tafsīr and hadith, Mawlana Idrīs Kandhlewī, concludes in his Tafsīr: “That this tale is forged and baseless is established by transmitted and rational proofs.”

The small number of scholars that did consider the story to have some basis did not accept its apparent meaning. At the most, this report is a *khabar al-wāhid* (a solitary report), and thus does not have the authority to override established beliefs and principles that are known through overwhelming evidence and the consensus of the scholars. The implication that Shaytān could have caused words to appear on the tongue of Nabī (sallAllāhu ‘alayhi wasallam) cannot be accepted, as this contradicts a number of established doctrines and principles, including the ‘ismah (divine protection) of the Anbiyā’ (‘alayhimussalām). Furthermore, the Qur’an establishes that Shaytān has no such power over another human being, let alone a Nabī of Allah Ta‘ālā (Qur’an, 14:22). Hence, those scholars that considered the report to have a basis offered a number of interpretations to make the meaning of the report acceptable. The most favourable of these

interpretations is that these words did not appear on the tongue of Nabī (sallAllāhu ‘alayhi wasallam); rather, the Shaytān uttered these words during the recitation of Nabī (sallAllāhu ‘alayhi wasallam), imitating his voice in such a way that it appeared to the idolaters that they were part of his recitation. Nonetheless, as explained earlier, the favoured view is that the story is unsound, so there is no need to find an acceptable meaning for it.

Finally, the tafsīr (explanation) of the verse in question (i.e. 22:52) is not dependent on this story. The verse simply means that when the Anbiyā’ of Allah Ta‘ālā recited His verses to their peoples, the Shaytān cast doubts and aspersions in the hearts and minds of the idolaters, upon which Allah Ta‘ālā obliterated these doubts and made His verses firm. This explanation is found in Tafsīr Abū Hayyān and other reliable Tafsīrs.

In conclusion, the vast majority of the scholars have regarded this story as being unreliable, and the few that regarded it as having some basis did not accept its apparent implication and interpreted it to accord with the decisive principles established in the Qur’an, Sunnah and the consensus of the Ummah. Moreover, understanding verse 22:52 of the Qur’an is not dependent on this story. Rather, the verse has the straightforward meaning explained above.

فتح الباري، دار السلام، ج. 8 ص. 558 بذل المجهود، دار البشائر الإسلامية، ج. 6 ص. 4-71 تفسير الطبري، دار هجر، ج. 16 ص 11-603 تفسير ابن كثير، قديمي كتب خانه، ج. 3 ص 306 ومعناهم كلهم في ذلك واحد وكلها سوى طريق سعيد بن جبير إما ضعيف وإلا منقطع لكن كثرة الطرق تدل على أن للقصة أصلا مع أن لها طريقتين آخرين مرسلين رجالهما على شرط الصحيحين فتح الباري، دار السلام، ج. 558 بذل المجهود، دار البشائر الإسلامية، ج. 6 ص. 72 معارف القرآن، إدارة المعارف، ج. 6 ص. 265

معارف القرآن، مكتبة المعارف، ج. 5 ص. 319 نصب المجانيق لنسف قصة الغرائق، المكتب الإسلامي، 48-46 معارف القرآن، مكتبة المعارف، ج. 5 ص. 323 معارف القرآن، إدارة المعارف، ج. 6 ص. 265 وقيل كان النبي صلى الله عليه وسلم يرتل القرآن فارتصده الشيطان في سكتة من السكتات ونطق بتلك الكلمات محاكياً نغمته بحيث سمعه من دنا إليه فظنها من قوله وأشاعها. قال: وهذا أحسن الوجوه ويؤيده ما تقدم في صدر الكلام عن ابن عباس من تفسير ثمنى بتلا وكذا استحسّن ابن العربي هذا التأويل فتح الباري، دار السلام، ج. ثم حكى أجوبة عن الناس من ألّفها أن الشيطان أوقع في مسامع المشركين ذلك فتوهموا أنه صدر عن رسول الله صلى الله عليه وسلم، وليس كذلك في نفس الأمر بل إنما كان من صنع الشيطان لا من رسول الرحمن صلى الله عليه وسلم والله أعلم تفسير ابن كثير، قديمي كتب خانه، ج. 3 ص 307 معارف القرآن، إدارة المعارف، ج. 6 ص. 265 معارف القرآن، إدارة المعارف، ج. 6 ص. 265

PLASTIC SURGERY

Q: Kindly advise us if Plastic Surgery is allowed under Islamic Sharia Law and if surgery need to be conducted by female doctor as opposed to male doctor. Moreover, please inform us of type of surgeries allowed under Islamic Sharia' in terms of Plastic Surgery.

A: Plastic surgery is a very broad field that covers many different types of surgeries that may be further sub-divided into several different procedures such as Aesthetic Surgery, Burn Surgery, Crani-ofacial Surgery, Hand Surgery, Microsurgery Surgery, and Paediatric Plastic Surgery.

In more broader terms, plastic surgery procedures may be divided into two main categories:

(1) Reconstructive Procedures: Reconstructive procedures correct defects on the face or body. This type of surgery is performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors or disease. Examples of this include physical birth defects like cleft lips and palates and ear deformities, traumatic injuries like those from dog bites or burns, or the aftermath of disease treatments like rebuilding a woman's breast after surgery for breast cancer. It is generally performed to improve functions, but may also be done to approximate a normal appearance.

(2) Cosmetic Procedures (also known as “Aesthetic Procedures”)

Cosmetic plastic surgery includes surgical and nonsurgical procedures that reshape normal structures of the body in order to improve appearance and self-esteem. It is mainly performed to alter a part of the body that the person is not satisfied with. Common cosmetic procedures include making the breasts larger (augmentation mammoplasty) or smaller (reduction mammoplasty), reshaping the nose (rhinoplasty), and removing pockets of fat from specific spots on the body (liposuction).

Furthermore, cosmetic procedures may be performed for a variety of reasons but are usually restricted to people who are simply trying to beautify and adorn themselves by improving their outer appearance through surgical means. In other words, a large number cosmetic procedures are performed without any medical benefit in mind other than just “looking better.”

In order to understand the Shar’i aspect behind such procedures, we shall first quote the relevant texts needed to understand the concept fully:

Allah the Almighty says in the Holy Quran: “(Shaitān says) and I will lead them astray and I will tempt them with false hopes and give them my order so they shall slit the ears of cattle and I will give them my order so they shall alter the creation of Allah.”

It is reported in Sahih al-Bukhārī that ‘Abdullah bin Mad’ūd (radi-yallahu ‘anh) said: “Allah has cursed those women who practise tattooing and those who get themselves tattooed, and those who remove their face hairs, and those who create a space between their teeth artificially in order to look beautiful. They are such women that change the natural features created by Allah Ta’ālā. Why then should

I not curse those whom the Prophet (sallallahu ‘alaihi wa sallam) has cursed? And this is found in Allah’s Book: ‘And what the Messenger gives you take it, and what he forbids you from abstain (from it).’ [59.7]

Based on the texts above, the mufasssirūn and muhaddithūn have mentioned that any permanent changes made to one’s body that involve tampering with one’s natural features fall under the category of either at-taghyīr li khalqillah or muthlah (mutilation), which are strictly prohibited in Islam. Nevertheless, Islam has also taken into account the fact that many surgical procedures are performed in order to fix physical defects or to treat injuries that otherwise would lead to severe health problems if not tended to at an earlier stage. In light of this, the fuqahā and many contemporary scholars have commented that if one uses surgical means in order to fix a physical defect or treat a certain disease, then it will be permissible to undergo such a surgery.

Now that we have discussed the basic elements surrounding this issue, we shall discuss the Shar’ī rulings pertaining to plastic surgery specifically:

Reconstructive Procedures:

Reconstructive procedures will be permissible if they are done when there is a genuine medical need, especially if leaving such a procedure will result in future health related issues.

Cosmetic or Aesthetic Procedures: In general, cosmetic surgeries are mainly resorted to for beautifying oneself and simply improving one’s outer appearance without any sign of a health related issue. As such, cosmetic surgeries will not be permissible unless a reliable physician

informs the patient that he or she needs to undergo such a procedure in order to safeguard themselves from severe health-related issues. It is important to keep in mind that health-related issues differ from person-to-person. As such, the abovementioned rulings are general and will require further consultation from reliable medical doctors and knowledgeable 'Ulamā regarding individual cases, especially for cosmetic surgeries.

In regards to female doctors, the most optimal situation is that female doctors restrict themselves to female patients and male doctors restrict themselves to male patients. Unless there is a dire need where the same gender is not available, it will not be feasible for one to treat the opposite gender.

"PLASTIC SURGERY", WIKIPEDIA, ACCESSED ON APRIL 14, 2014, [HTTP://EN.WIKIPEDIA.ORG/WIKI/PLASTIC_SURGERY](http://en.wikipedia.org/wiki/Plastic_surgery)

"COSMETIC PROCEDURES", ASPS (AMERICAN SOCIETY OF PLASTIC SURGEONS), ACCESSED ON APRIL 14, 2014, [HTTP://WWW.PLASTICSURGERY.ORG/COSMETIC-PROCEDURES.HTML](http://www.plasticsurgery.org/cosmetic-procedures.html);

"RECONSTRUCTIVE PROCEDURES", ASPS (AMERICAN SOCIETY OF PLASTIC SURGEONS), ACCESSED ON APRIL 14, 2014, [HTTP://WWW.PLASTICSURGERY.ORG/RECONSTRUCTIVE-PROCEDURES.HTML](http://www.plasticsurgery.org/reconstructive-procedures.html);

ثُمَّ قِيلَ: هَذَا الْمُنْهَى عَنْهُ إِمَّا هُوَ فِيمَا يَكُونُ بَاقِيًا، لِأَنَّهُ مِنْ بَابِ تَغْيِيرِ خَلْقِ اللَّهِ تَعَالَى، فَأَمَّا مَا لَا يَكُونُ بَاقِيًا كَالْكُحْلِ وَالتَّزْيِينِ بِهِ لِلنِّسَاءِ فَقَدْ أَجَازَ الْعُلَمَاءُ ذَلِكَ مَالِكٌ وَغَيْرُهُ، وَكَرِهَهُ مَالِكٌ لِلرِّجَالِ. وَأَجَازَ مَالِكٌ أَيْضًا أَنْ تَشِي الْمَرْأَةُ يَدَيْهَا بِالْحِجَاءِ (تفسير القرطبي، ج 3، ص 342، دار الحديث)

وَلَأُضِلُّنَّهُمْ وَلَأُمَنِّيَنَّهُمْ وَلَأَمْرُنُهُمْ فَلَيَبْتَكَنَّ آذَانَ الْأَنْعَامِ وَلَأَمْرُنُهُمْ فَلَيَغَيِّرُنَّ خَلْقَ اللَّهِ
قال أبو جعفر: وأولى الأقوال بالصواب في تأويل ذلك، قول من قال: معناه: "ولأمرنهم فليغيرن خلق الله"، قال: دين الله. وذلك لدلالة الآية
الأخرى على أن ذلك معناه، وهي قوله: (فَطَرَهُ اللَّهُ إِلَهًا لَا يَبْدُلُ خَلْقًا لَهُ ذَلِكَ الدِّينَ الْقَيِّمُ)، [سورة الروم
وإذا كان ذلك معناه، دخل في ذلك فعل كل ما نهى الله عنه: من خِصَاءٍ ما لا يجوز خِصَاؤُهُ، ووشم ما نهى عن وشمه ووشْرُهُ، وغير ذلك .
من المعاصي = ودخل فيه ترك كل ما أمر الله به. لأن الشيطان لا شك أنه يدعو إلى جميع معاصي الله وينهى عن جميع طاعته. فذلك معنى
(أمره نصيبه المفروض من عباد الله، بتغيير ما خلق الله من دينه. تفسير الطبري، سورة النساء، آية 119)

ثُمَّ إِنَّ فِيهِ أَلَمًا عَظِيمًا رُبَّمَا يُفْضِي بِصَاحِبِهِ إِلَى الْهَلَاكِ، فَيَكُونُ فِيهِ تَضَيُّعٌ مَالٍ وَإِذْهَابٌ نَفْسٍ، وَكُلُّ ذَلِكَ مِنْهُي عَنْهُ. ثُمَّ هَذِهِ مُثَلَّةٌ، وَقَدْ نَهَى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ الْمَثَلَةِ، وَهُوَ صَحِيحٌ. وَقَدْ كَرِهَ جَمَاعَةٌ مِنْ قَهَّاءِ الْحِجَازِيِّينَ وَالْكُوفِيِّينَ شِرَاءَ الْخَصِيِّ مِنَ الصَّقَالِيَةِ وَعَرِيْهِمْ وَقَالُوا: لَوْ لَمْ يُشْتَرَوْا مِنْهُمْ لَمْ يَخْضُوا. وَلَمْ يَخْضُوا أَنْ خِصَاءَ بَنِي آدَمَ لَا يَحِلُّ وَلَا يَجُوزُ، لِأَنَّهُ مُثَلَّةٌ وَتَغْيِيرُ لِحَاقِ اللَّهِ تَعَالَى، وَكَذَلِكَ قَطَعَ (سَائِرَ أَغْضَائِهِمْ فِي غَيْرِ حَدِّ وَلَا قُودِ تَفْسِيرِ الْقُرْطَبِيِّ، ج 3، ص 340، دار الحديث)

وَأَمَرْنَهُمْ فَلْيَتَنَكَّنْ أَدَانَ الْأَنْعَامِ يَشْقُونَهَا لِتَحْرِيمِ مَا أَحَلَّ اللَّهُ وَهِيَ عِبَارَةٌ عَمَّا كَانَتْ الْعَرَبُ تَفْعَلُ بِالْحَائِرِ وَالسَّوَابِ، وَإِشَارَةٌ إِلَى تَحْرِيمِ مَا أَحَلَّ وَنَقْصِ كُلِّ مَا خَلَقَ كَامِلًا بِالْفِعْلِ أَوْ الْقُوَّةِ. وَأَمَرْنَهُمْ فَلْيَعْرِضْ خَلْقُ اللَّهِ عَنْ وَجْهِهِ وَصُورَتِهِ أَوْ صِفَتِهِ. وَيَنْدَرُجُ فِيهِ مَا قِيلَ مِنْ فُقَاءِ عَيْنِ الْحَامِي، وَخِصَاءِ الْعَبِيدِ، وَالْوَشْمِ، وَالْوُشَى، وَاللُّوَاطِ، وَالسَّقَقِ، وَنَحْوِ ذَلِكَ وَعِبَادَةُ الشَّمْسِ، وَالْقَمَرِ، وَتَغْيِيرُ فِطْرَةِ اللَّهِ تَعَالَى الَّتِي هِيَ الْإِسْلَامُ وَاسْتِعْمَالُ الْجَوَارِحِ وَالْقَوَى فِيهَا لَا يَعُودُ عَلَى النَّفْسِ كِهَالًا وَلَا يُوجِبُ لَهَا مِنَ اللَّهِ سَبْحَانَهُ وَتَعَالَى زَلْفَى. تَفْسِيرُ الْبِيضَاوِيِّ، سُورَةُ النِّسَاءِ، وَ لَا بِأَسْ بِشَقِ الْمِثْنَةِ إِذَا كَانَ فِيهَا حِمَاةٌ وَفِي الْكَيْسَانِيَّاتِ فِي الْجَرَاحَاتِ الْمُخَوِّفَةِ وَالْقُرُوحِ الْعَظِيمَةِ وَالْحِمَاةِ الْوَاقِعَةِ فِي الْمِثْنَةِ وَنَحْوَهَا مِنَ الْعِلَلِ إِنْ قِيلَ قَدْ يَنْجُو وَ قَدْ مَيِّتَ أَوْ يَنْجُو وَ لَا مَيِّتَ تَعَالَى * وَ إِنْ قِيلَ لَا يَنْجُو أَصْلًا لَا تَدَاوِي بَلْ تَرَكَ وَ يَبَاحُ قَطْعُ الْيَدِ لِلَاكِلَةِ رَجُلٍ لَهُ سَلْعَةٌ أَوْ حَجَرٌ فَأَرَادَ أَنْ يَسْتَخْرِجَهُ وَ يَخَافُ مِنْهُ الْمَوْتُ قَالَ أَبُو يُوسُفَ رَحِمَهُ اللَّهُ تَعَالَى إِنْ كَانَ فَعَلَهُ أَحَدٌ فَجَنَّا فَلَا بِأَسْ بِأَنْ يَفْعَلَ * لِأَنَّهُ يَكُونُ مُعَالَجَةً وَ لَا يَكُونُ تَعْرِيفًا لِلْهَلَاكِ * وَ فِي الْفَتَاوَى إِذَا أَرَادَ أَنْ يَقْطَعَ إصْبَعًا زَائِدَةً أَوْ شَيْئًا آخَرَ قَالَ أَبُو نَصْرٍ رَحِمَهُ اللَّهُ تَعَالَى إِنْ كَانَ الْغَالِبُ عَلَى مَنْ قَطَعَ مِثْلَ ذَلِكَ الْهَلَاكِ فَإِنَّهُ لَا يَفْعَلُ لِأَنَّهُ تَعْرِيفُ النَّفْسِ لِلْهَلَاكِ * وَ إِنْ كَانَ الْغَالِبُ هُوَ النِّجَاحُ فَهُوَ فِي سَعَةِ مِنْ ذَلِكَ (فَتَاوَى قَاضِيخَانَ، ج 3، ص 313، دار الكتب العلمية)

أَدَخَلَ الْمَرَارَةَ فِي أَضْيَعِهِ لِلتَّدَاوِي قَالَ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى لَا يَجُوزُ وَعِنْدَ أَبِي يُوسُفَ رَحِمَهُ اللَّهُ تَعَالَى يَجُوزُ وَعَلَيْهِ الْقَوْلُ كَذَا فِي الْخُلَاصَةِ الْفَتَاوَى الْهِنْدِيَّةِ، ج 5، ص 356) والحاصل: أن كل ما يفعل في الجسم من زيادة أو نقص من أجل الزينة بما يجعل الزيادة أو النقصان مستمرا مع الجسم، و بما يبدو منه أنه كان في أصل الخلقة هكذا؛ فإنه تلبس و تغيير منهي عنه. وأما ما تزينت به المرأة لزواجها من تحميم الأيدي، أو الشفاء أو الراضين بما لا يلبس بأصل الخلقة، فإنه ليس داخلا في النهي عند جمهور العلماء. وأما قطع الإصبع الزائدة ونحوها؛ فإنه ليس تغييرا لخلق الله، وإنه من قبيل إزالة العيب أو مرض، فأجازته أكثر العلماء خلاف لبعضهم (تكملة فتح الملهم، ج 5، ص 116، دار القلم)

فإن أصاب امرأة جرح أو قرحة في موضع لا يحل للرجل أن ينظروا إليه فلا بأس بأن يعلم امرئ دواء ذلك الجرح... فإن لم يجدوا امرأة تداوي الجرح الذي بها أو القرحة و لم يقدروا علي امرأة تعلم ذلك، و خافوا علي المرأة التي بها الجرح أو القرحة أن تهلك أو يصيبها بلاء أو دخلها من ذلك وجع لا يحتمل، أو لم يكن يداوي الموضع إلا رجل، فلا بأس بأن يستتر منها كل شيء إلا موضع الجرح أو القرحة ثم يداوي الرجل و يغض بصره بما استطاع عن عورة، و ذات محرم و غيرها في ذلك سواء كتاب الأصل للإمام محمد الشيباني، ج 2، ص 238-239، دار ابن حزم

قال الحصكفي [وشرائها ومداواتها تنظر] الطبيب [إلى موضع مريضها بقدر الضرورة] إذ الضرورات تتفقد بقدرها وكذا نظر قابلة وختان [ويُنْبَغِي أَنْ يُعْلَمَ امْرَأَةً تَدَاوِيهَا لِأَنَّ نَظَرَ الْجِنْسِ إِلَى الْجِنْسِ أَحَقُّ قَالَ ابْنُ عَابِدِينَ] (قَوْلُهُ وَيُنْبَغِي [إِلَخ] كَذَا أَطْلَقَهُ فِي الْهِدَايَةِ وَالْحَانِيَةِ. وَقَالَ فِي الْجَوْهَرَةِ: إِذَا كَانَ الْمَرَضُ فِي سَائِرِ بَدَنِهَا غَيْرَ الْفَرْجِ يَجُوزُ النَّظَرُ إِلَيْهِ عِنْدَ الدَّوَاءِ، لِأَنَّهُ مَوْضِعُ ضَرُورَةٍ، وَإِنْ كَانَ فِي مَوْضِعِ الْفَرْجِ، فَيُنْبَغِي أَنْ يُعْلَمَ امْرَأَةً تَدَاوِيهَا فَإِنْ لَمْ تَوْجَدْ وَخَافُوا عَلَيْهَا أَنْ تَهْلِكَ أَوْ يُصِيبَهَا وَجَعٌ لَا تَحْتَمِلُهُ يَسْتُرُوا مِنْهَا كُلَّ شَيْءٍ إِلَّا مَوْضِعَ الْعِلَّةِ ثُمَّ يَدَاوِيهَا الرَّجُلُ وَيَغْضُ بَصَرَهُ مَا اسْتَطَاعَ إِلَّا عَنْ مَوْضِعِ الْجَرْحِ إِهْ فَتَأَمَّلْ وَالظَّاهِرُ أَنَّ "يُنْبَغِي" هُنَا لِلْوُجُوبِ رَدِ الْمُحْتَارِ عَلَى الدَّرِ الْمُخْتَارِ، ج 9، ص 612، دار المعرفة

و كذا إذا كان بها جرح او قرح في موضع لا يحل للرجال النظر اليه، فلا بأس أن تداويها إذا علمت المداواة...فإن لم توجد امرأة تعلم المداواة و لا امرأة تتعلم و خيف عليها الهلاك او بلاء او وجع لا تحتمله يداويها الرجل، لكن لا يكشف منها إلا موضع الجرح و يغض بصره ما استطاع، لأن الحرمات الشرعية جاز أن يسقط اعتبارها شرعا لمكان الضرورة (بدائع الصنائع، ج 6، ص 499، دار الكتب العلمية)

IS SURROGACY PERMISSIBLE?

Q: I have a question about surrogacy. My wife and I have tried for 2years to have a child, with no positive result. We consulted a specialist fertility doctor, and he said that my wifes womb lining is too thin to carry a baby, reason being she has had TB in the abdomen before, and this situation is irreversible after trying with medication to get the lining thicker. So the way of having our own child is by doing surrogacy he has told us.

The manner in which this is done is by putting an embryo, [which is a fertile egg (from my wife) together with (my) sperm] into another womens womb, where the baby is developed for +- 9months, with a contract drawn up, between both the parties involved. My wife is currently on medication for this treatment, at early stage. I would like to know, is this permitted in Islam?

A: Our Imaan is on taqdeer (predestination). Allah Taala in His infinite knowledge knows ahead of time what is to be in the future. Everything comes to be with the decree of Allah Taala. It is compulsory for a believer to submit to the decree of Allah Taala and be happy with it. Allah is Al Hakeem and every decree of Allah is based on His infinite wisdom. What we may feel uncomfortable with may actually be in our own interest.

Allah Taala says: “It could be that you dislike something, when it is good for you; and it could be that you like something when it is bad for you. Allah knows, and you do not know.” (Al Baqarah-216)

While we understand that you want a child. The situation of your wife is not in her control. It is the decree of Allah. Consider the following verses of the Quraan: “To Allah Ta’ala belongs the kingdom of the heavens and the earth. He creates what He wills. He bestows female upon whom He wills, and bestows male upon whom He wills. Or He bestows both males and females, and He renders barren whom He wills. Verily, He is the all-knower and is able (to do all things).” (Surah al-Shurah 48)

Modern advancement in medical science has come forth with many methods in treating infertility some of which would be permissible in extreme circumstances such as IVF (with the condition that only the husband and wife are involved in the procedure) whilst other procedures such as surrogacy are totally impermissible. In principle, all forms of partial and commercial surrogacy are not permissible, since surrogacy involves introducing the sperm of a male into the uterus of a woman to whom he is not married (even though the embryo may be fertilized with ones wife’s egg) and, thus, it clearly falls under the specific category of transgressing the bounds of Allah as stated in the Quraan:

“Successful indeed are the believers. (1) And those who guard their chastity (5) Except from their wives or from those (bondwomen who are) owned by their hands, as they are not to be blamed. (6) But whoever seeks beyond that, then those are the transgressors (7)(Surah al-Muminoon)”

By introducing a third party into the equation, this procedure throws into confusion the issue of the identity of the child. In Islam, every child has a right to a definite parentage, namely, that of a father and mother. In the case of surrogate motherhood, the question arises as to the identity of the real mother of the child. Is she the genetic mother who provides the egg from which the child is born, or is she the woman whose womb serves as a carrier for the child and provides tillage to the embryo? Further, it may also lead to legal fights over the parentage of the child, as is a common scenario.

Finally, the entire procedure amounts to dehumanizing the process of human procreation by reducing the womb down to the level of a commodity that can be bought or rented for service. Ultimately, such a process, yet again, violates the dignity and honour that Allah Almighty has bestowed on man and woman. Our advice is adopt only permissible means in searching for your taqdeer. There is barakah and blessings in that.

WHAT IS THE RULING ON LASER LIPOSUCTION?

Q: I wanted to ask if laser liposuction is allowed in Islam? I gave birth months ago and due to that, I have put on a lot weight and not losing it. The area I would like to do is my stomach as it is very big and floppy now. I also have a bad knee problem due to my weight. I have tried dieting but haven't worked, and I can't do much exercise because of my asthma which I had since birth and gets quiet bad when I work out even a little. My husband says I have gone really big and I need to do something about it. So would this be permissible?

A: WebMD explains the procedure of laser liposuction as follows: “Laser liposuction uses lasers to liquefy the fat before it is removed, making it easier to vacuum out via liposuction. Lasers may also stimulate the production of collagen and elastin, which results in firmer, tighter, and smoother skin. Lasers may also coagulate small blood vessels in the area, which translates to less bruising.”

Based on these details, this procedure will still require surgical methods used in conventional liposuction (by making a small incision) in order to pierce through the skin and suck out the fat through a vacuum. From the Islamic point of view, there is no hindrance from shari’ah in using non-surgical means to beautify one’s outer appearance. On the other hand, using surgical means merely to improve one’s outer appearance will not be permitted unless one feels there is a medical need or one needs to rectify a physical defect that might become detrimental to one’s own health. As such, if you feel that you require this procedure due to your weight causing a knee problem, it will be permissible for you to go through with this procedure.

MANN, DENISE. "DEBATE ON LASER LIPOSUCTION TO REMOVE FAT", WEBMD, ACCESSED ON NOVEMBER 6, 2013

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وَالْحَاصِلُ: أَنَّ كُلَّ مَا يَفْعَلُ فِي الْجِسْمِ مِنْ زِيَادَةٍ أَوْ نَقْصٍ مِنْ أَجْلِ الزَّيْنَةِ بِمَا يَجْعَلُ الزِّيَادَةَ أَوْ النِّقْصَانَ مُسْتَمَرًّا مَعَ الْجِسْمِ، وَبِمَا يَبْدُو مِنْهُ (أَنَّهُ كَانَ فِي أَوَّلِ الْخَلْقَةِ هَكَذَا؛ فَأَنَّهُ تَلْبِيسٌ وَتَغْيِيرٌ مِنْهُي عَنْهُ). (تَكْمِلَةُ فَتَحِ الْمُلْهِمِ، ج 5، ص 116، دَارُ الْقَلَمِ وَلِأَصْلِهِمْ وَلِأَمْنِيَّتِهِمْ وَلِأَمْرِهِمْ فَلْيَبْتَغُوا آذَانَ الْأَنْعَامِ وَلِأَمْرِهِمْ فَلْيَبْتَغُوا خَلْقَ اللَّهِ: قَالَ: حَدَّثَنَا [أَبُو عَبْدِ اللَّهِ الْمُعَدَّلُ حَدَّثَنَا «3»] عَبَّاسُ بْنُ مُحَمَّدٍ حَدَّثَنَا أَبُو مَالِكٍ النَّخَعِيُّ عَنْ عُمَرَ بْنِ إِسْمَاعِيلَ، فَذَكَرَهُ: قَالَ الدَّارِقُطَنِيُّ: وَرَوَاهُ عَبْدُ الصَّمَدِ بْنُ النُّعْمَانِ عَنْ أَبِي مَالِكٍ الْخَاشِمَةِ. وَأَمَّا وَأَمَّا الْخِصَاءُ فِي الْأَدَمِيِّ فَمُصِيبَةٌ، فَإِنَّهُ إِذَا خَصِيَ بَطَلَ قَلْبُهُ وَقُوَّتُهُ، عَكَسَ الْحَيَوَانَ، وَانْقَطَعَ نَسْلُهُ الْمَأْمُورُ بِهِ فِي قَوْلِهِ عَلَيْهِ السَّلَامُ: (تَنَاقَحُوا تَنَاسَلُوا فَإِنِّي مُكَاتِّرٌ بِكُمْ الْأُمَمُ ثُمَّ إِنَّ فِيهِ أَلَمًا عَظِيمًا رُبَّمَا يُفْضِي بِصَاحِبِهِ إِلَى الْهَلَاكِ، فَيَكُونُ فِيهِ تَضْيِيعٌ مَالٍ وَإِذْهَابُ نَفْسٍ، وَكُلُّ ذَلِكَ مِنْهُي عَنْهُ. ثُمَّ هَذِهِ مُثْلَةٌ، وَقَدْ نَهَى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ الْمُثْلَةِ وَهُوَ صَحِيحٌ. وَقَدْ كَرِهَ جَمَاعَةٌ مِنْ فَهْمَاءِ الْحِجَازِيِّينَ وَالْكُوفِيِّينَ شِرَاءَ الْخَصِيِّ مِنَ الصَّالِبَةِ وَغَيْرِهِمْ وَقَالُوا: لَوْ لَمْ يَشْتَرَوْا مِنْهُمْ لَمْ يُخْصُوا. وَلَمْ يَخْتَلِفُوا أَنَّ خِصَاءَ بَنِي آدَمَ لَا يَجِلُّ وَلَا يَجُوزُ لِأَنَّهُ مُثْلَةٌ وَتَغْيِيرٌ لِخَلْقِ اللَّهِ تَعَالَى، وَكَذَلِكَ قُطِعَ سَائِرُ أَعْضَائِهِمْ فِي غَيْرِ حَدٍّ وَلَا قُودٍ تَفْسِيرُ الْقُرْطُبِيِّ، سُورَةُ النِّسَاءِ، وَلِأَمْرِهِمْ فَلْيَبْتَغُوا آذَانَ الْأَنْعَامِ يَشْقُونَهَا لِتَحْرِيمِ مَا أَحَلَّ اللَّهُ وَهِيَ عِبَارَةٌ عَمَّا كَانَتْ الْعَرَبُ تَفْعَلُ بِالْبَحَائِرِ وَالسَّوَابِ، وَإِشَارَةٌ إِلَى تَحْرِيمِ مَا أَحَلَّ وَنَقْصِ كُلِّ مَا خَلَقَ كَامِلًا بِالْفِعْلِ أَوْ الْقُوَّةِ. وَلِأَمْرِهِمْ فَلْيَبْتَغُوا خَلْقَ اللَّهِ عَنْ وَجْهِهِ وَصُورَتِهِ أَوْ صَفَتِهِ. 119

ويندرج فيه ما قبل من فقه عَنِ الحامي، وخصاء العبيد، والوشم، والوشى، واللواط، والسحق، ونحو ذلك وعبادة الشمس، والقمر، وتغيير فطرة الله تعالى التي هي الإسلام، واستعمال الجوارح والقوى فيها لا يعود على النفس كمالاً ولا يوجب لها من الله سبحانه وتعالى زلفى

JADID FIQHI MASAAIL, VOL. 1, PG. 219 (تفسير البيضاوي، سورة النساء، 119)

و لا بأس بشق المثانة إذا كان فيها حصاة و في الكيسانيات في الجراحات المخوفة و القروح العظيمة و الحصاة الواقعة في المثانة و نحوها من العلل إن قيل قد ينجو و قد يموت أو ينجو و لا يموت تعالج * و إن قيل لا ينجو أصلاً لا تداوى بل تترك و يباح قطع اليد للأكلة * رجل له سلعة أو حجر فأراد أن يستخرجه و يخاف منه الموت قال أبو يوسف رحمه الله تعالى إن كان فعله أحد فنجا فلا بأس بأن يفعل لأنه يكون معالجة و لا يكون تعريضاً للهلاك

و في الفتاوي إذا أراد أن يقطع إصبعا زائدة أو شيئاً آخر قال أبو نصر رحمه الله تعالى إن كان الغالب على من قطع مثل ذلك الهلاك فإنه لا يفعل لأنه تعريض النفس للهلاك * و إن كان الغالب هو النجاة فهو في سعة من ذلك فتاوي قاضيهان، ج 3، ص 313، دار الكتب العلمية أَدْخَلَ الْمَرَآةَ فِي أَصْبَعِهِ لِلتَّداوِي قَالَ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى لَا يَجُوزُ وَعِنْدَ أَبِي يُوسُفَ رَحِمَهُ اللَّهُ تَعَالَى يَجُوزُ وَعَلَيْهِ الْقَوْلُ كَذَا فِي الْخُلَاصَةِ الْفَتَاوِي الْهِنْدِيَّةِ، ج 5، ص 356

IS DONATING AND RECEIVING BLOOD PERMISSIBLE?

Q: I would like to know if donating and receiving blood is permissible in Islam?

A: It is permissible to donate and transfuse blood if:

- a) There is a desperate need to donate blood; b) There is no other alternative; and
- c) This has been prescribed by an expert medical practitioner.

This permissibility is based on the principal of ‘necessity relaxes prohibition.’ (Al-Ashbaah).

However, the permissibility of blood donation and blood transfusion is determined by the following conditions:

- a) The donor willingly donates his blood. If he is compelled to do so, it will not be permissible;

- b) There is no danger to his (the donor's) life or health;
- c) If the doctor feels that the patient will lose his life and there is no other alternative but recourse of blood transfusion; and
- d) There is no fear of death but the recovery is not possible without blood transfusion.

It is not permissible to sell one's blood or to pay the blood donor. However, if one is in need of blood desperately and the only means to obtain the blood is to purchase it, then only will it be permissible to pay for the blood.

NB. Blood donation and blood transfusion is not permissible for the sake of beautification or for any other reason other than genuine necessity.

قال في النهاية و في التهذيب يجوز للعليل شرب البول والدم والميتة لالتداوي اذا اخبره طبيب مسلم ان فيه شفائه ولم يجد مباح م يقوم مقامه وان قال الطبيب: يتعجل شفائك به فيه وجهان (رد المحتار 5/ 228، سعيد فتاوي دار العلوم زكريا 6/788 فتاوي هندية 5/355 جواهر الفقه 7/46)

WHAT IS THE RULING FOR CELEBRATING ASHURA?

Q: What is the ruling for celebrating ashura and is it correct to say the ummayyads introduced this?

A : Fasting on the day of Ashura (10th of Muharram) is a beloved Sunnah of Rasulullah Sallallalhu Alayhi Wasallam. Rasulullah Sallallalhu Alayhi Wasallam emphasized greatly on the virtue and significance of this day. Some virtues are as mentioned hereunder:

The Messenger of Allah used to fast the first nine days of Dhul-Hijjah, Ashura' and three days of every month, that is, the first Monday (of the month) and Thursday.

Fast the Day of Ashura, for indeed I anticipate that Allah will forgive (the sins of) the year before it." I never saw the Prophet seeking to fast on a day more (preferable to him) than this day, the day of 'Ashura', or this month, i.e. the month of Ramadan. However, to believe that the Umayyads introduced this is a misconception made by the Shia. Sayyidina Husain Radhiallahu Anhu, the son of Ali Radhiallahu Anhu was martyred on this very day in the year 61 A.H at the incident of Karbala. Hence, they tend to celebrate this day as a commemoration for Sayyidina Husain Radhiallahu Anhu.

The day of Ashura and its significance was introduced much before the death of Husain Radhiallahu Anhu. This is proven by many Ahadith and by Rasulullah Sallalllhu Alayhi Wasallam himself who passed away in 11 A.H.

Allah's Messenger came to Medina, he found the Jews observing the fast on the day of Ashura. They (the Jews) were asked about it and they said: It is the day on which Allah granted victory to Musa and (his people) Bani Isra'il over the Pharaoh and we observe fast out of gratitude to Him. Upon this the Messenger of Allah said: We have a closer connection with Musa than you have, and he (Allah's Messenger) commanded to observe fast on this day.

The people used to fast on 'Ashura (the tenth day of the month of Muharram) before the fasting of Ramadan was made obligatory. And on that day the Ka'ba used to be covered with a cover. When Allah made the fasting of the month of Ramadan compulsory, Allah's Messenger said, "Whoever wishes to fast (on the day of 'Ashura') may do so; and whoever wishes to leave it can do so."

"The Prophet sent a messenger to the village of the Ansar in the morning of the day of 'Ashura' (10th of Muharram) to announce: 'Whoever has eaten something should not eat but complete the fast, and whoever is observing the fast should complete it.' "She (the narrator Rubayyi Bint Muawwiz) further said, "Since then we used to fast on that day regularly and also make our boys fast. We used to make toys of wool for the boys and if anyone of them cried for, he was given those toys till it was the time of the breaking of the fast." During the Pre-Islamic Period of ignorance the Quraish used to observe fasting on the day of 'Ashura', and the Prophet himself used to observe fasting on it too. But when he came to Medina, he fasted on that day and ordered the Muslims to fast on it. When (the order of compulsory fasting in) Ramadan was revealed, fasting in Ramadan became an obligation, and fasting on 'Ashura' was given up, and whoever wished to fast (on it) did so, and whoever did not wish to fast on it, did not fast.

It is evident that the fasting of Ashura was introduced even before Rasulullah Sallallahu Alayhi Wasallam's time. This was originally the obligatory fast before fasting in the month of Ramadan was introduced. Allamah Ibn Katheer Rahimahullah also mentions the corrupt beliefs of the Shias on the day of Ashura in his Tareekh whilst discussing the death of Sayyidina Husain Radhiallahu Anhu: The Rafidah (Shia) transgressed the bounds in the Buyid Dynasty around

the year 400. Drums would be beaten in Baghdad etc on the day of 'Ashura, and ashes and crushed wheat would be dispersed on the roads and markets. Haircloths would be hung in the stores, and the people would show grief and tears, and many of them would not drink water on that night in imitation of Husain as he was killed while thirsty. Then the women would come out exposing their faces, wailing, striking their faces and their chests, walking barefooted in the markets. And other such revolting innovations and repulsive fancies and innovated violations [would take place]. They only intended by this and the likes of this to disfigure the Umayyad Dynasty, because he was killed during their reign. The Nawasib from the people of the Levant did the reverse of the Rafidah and Shi'ah on the day of 'Ashura. Thus they would leading up to the day of 'Ashura cook crops and bathe and apply fragrance and wear their best clothing and they would treat that day as an Eid, preparing various dishes on it, and they would display happiness and delight; intending thereby to spite the Rawafid and do the opposite of them.

- It is important to note that when fasting on the day of Ashura, one should combine a fast either on the day before it or after it in order to avoid imitation of the Jews.

حَدَّثَنَا مُسَدَّدٌ، حَدَّثَنَا أَبُو عَوَانَةَ، عَنِ الْحُرِّ بْنِ الصَّيَّاحِ، عَنْ هُبَيْدَةَ بْنِ خَالِدٍ، عَنِ امْرِئِئِةٍ، عَنْ بَعْضِ أَزْوَاجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ - 2437
وَسَلَّمَ قَالَتْ: «كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَصُومُ تِسْعَ ذِي الْحِجَّةِ، وَيَوْمَ عَاشُورَاءَ، وَثَلَاثَةَ أَيَّامٍ مِنْ كُلِّ شَهْرٍ، أَوَّلَ اثْنَيْنِ مِنَ الشَّهْرِ
(وَالْخَمِيسِ)» (أبو داود)

حَدَّثَنَا قُتَيْبَةُ، وَأَحْمَدُ بْنُ عَبْدِ الصَّيْبِ، قَالَا: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ، عَنْ غُبَّالَانَ بْنِ جَرِيرٍ، عَنْ عَبْدِ اللَّهِ بْنِ مَعْبُدٍ، عَنْ أَبِي قَتَادَةَ، أَنَّ النَّبِيَّ صَلَّى
اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: صِيَامُ يَوْمِ عَاشُورَاءَ، إِنِّي أَحْتَسِبُ عَلَى اللَّهِ أَنْ يُكَفِّرَ السَّنَةَ الَّتِي قَبْلَهُ. (ترمذي)

(صحيح البخاري 44 / 3)

حَدَّثَنَا عُيَيْدُ اللَّهِ بْنُ مُوسَى، عَنْ ابْنِ عُيَيْنَةَ، عَنْ عُيَيْدِ اللَّهِ بْنِ أَبِي زَيْدٍ، عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا، قَالَ: «مَا رَأَيْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ
«وَسَلَّمَ يَتَحَرَّى صِيَامَ يَوْمِ فَضْلِهِ عَلَى غَيْرِهِ إِلَّا هَذَا الْيَوْمَ، يَوْمَ عَاشُورَاءَ، وَهَذَا الشَّهْرُ يَعْنِي شَهْرَ رَمَضَانَ
[صحيح مسلم، كتاب الصيام، باب فضل يوم عاشورا، مكتبة رحمانية]

حَدَّثَنَا يَحْيَى بْنُ بُكَيْرٍ حَدَّثَنَا اللَّيْثُ، عَنْ عَقِيلٍ، عَنْ ابْنِ شَهَابٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا، وَحَدَّثَنِي مُحَمَّدُ بْنُ مُقَاتِلٍ قَالَ: «أَخْبَرَنِي عَبْدُ اللَّهِ هُوَ ابْنُ الْمُبَارَكِ، قَالَ: أَخْبَرَنَا مُحَمَّدُ بْنُ أَبِي حَفْصَةَ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: كَانُوا يَصُومُونَ عَاشُورَاءَ قَبْلَ أَنْ يُفْرَضَ رَمَضَانُ، وَكَانَ يَوْمًا نُسِّرَ فِيهِ الْكَعْبَةُ [ص: 149]، فَلَمَّا فَرَضَ اللَّهُ رَمَضَانَ، قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ شَاءَ أَنْ يَصُومَهُ فَلْيَصُمْهُ، وَمَنْ شَاءَ أَنْ يَتَزَكَّهُ فَلْيَتَزَكَّهُ» صحيح البخاري حَدَّثَنَا مُسَدَّدٌ، حَدَّثَنَا بِشْرُ بْنُ الْمُقْصِلِ، حَدَّثَنَا خَالِدُ بْنُ دُكَّوَانَ، عَنْ الرَّبِيعِ بْنِ مَعُوذٍ، قَالَ: أَرْسَلَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ غَدَاةَ عَاشُورَاءَ إِلَى فَرَى الْأَنْصَارِ

مَنْ أَصْبَحَ مُفْطِرًا، فَلْيَتِمِّمْ بَقِيَّةَ يَوْمِهِ وَمَنْ أَصْبَحَ صَائِمًا، فَلْيَصُمْ»، قَالَتْ: فَكُنَّا نَصُومُهُ بَعْدُ، وَنُصُومُ صِيَابَتَنَا، وَنَجْعَلُ لَهُمُ اللَّعْبَةَ مِنَ الْعَيْنِ، فَإِذَا بَكَى أَحَدُهُمْ عَلَى الطَّعَامِ أَطْعَمْنَاهُ ذَلِكَ حَتَّى يَكُونَ عِنْدَ الْإِفْطَارِ صحيح البخاري

وَحَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْحُلَوَانِيُّ، حَدَّثَنَا ابْنُ أَبِي مَرْيَمَ، حَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ أُمِيَّةَ، أَنَّهُ سَمِعَ أَبَا (1134) - 133 غَطَفَانَ بْنَ طَرِيفٍ الْمُرِّيَّ يَقُولُ: سَمِعْتُ عَبْدَ اللَّهِ بْنَ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا، يَقُولُ: حِينَ صَامَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَوْمَ عَاشُورَاءَ وَأَمَرَ بِصِيَابَتِهِ قَالُوا: يَا رَسُولَ اللَّهِ إِنَّهُ يَوْمٌ تُعْظَمُهُ الْيَهُودُ وَالنَّصَارَى فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ (فَإِذَا كَانَ الْعَامُ الْمُتَقْبِلُ إِنْ شَاءَ اللَّهُ صُمْنَا الْيَوْمَ التَّاسِعَ) قَالَ: فَلَمْ يَأْتِ الْعَامُ الْمُتَقْبِلُ، حَتَّى تُؤْفَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ (مسلم) : وَرَوَى عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: صُومُوا التَّاسِعَ وَالْعَاشِرَ وَخَالِفُوا الْيَهُودَ. (ترمذي السَّيْفُ الَّذِي يُضْرَبُ بِهِ مَعْرُوفٌ، وَالْجَمْعُ أَسْيَافٌ وَسُيُوفٌ وَأَسْيَفٌ، عَنِ اللَّحْيَانِيِّ؛ وَأَنشد الأزهري في جَمْعِ أَسْيَفٍ: كَانَهُمْ أَسْيَفٌ بَيْضٌ يَمَانِيَّةٌ، ... عَضْبٌ مَضَارِبُهَا بَاقِي بِهَا الْأَثَرُ

وَأَسْأَفُ الْقَوْمِ وَتَسَافَتُوا: تَصَارَبُوا بِالسُّيُوفِ. وَقَالَ ابْنُ جَنِّي: اسْتَأَفُوا تَنَاوَلُوا السُّيُوفَ كَقَوْلِكَ امْتَشَنُوا سُيُوفَهُمْ وَامْتَخَطَوْهَا، قَالَ: فَأَمَّا تَفْسِيرُ أَهْلِ اللُّغَةِ أَنَّ اسْتَأَفَ الْقَوْمُ فِي مَعْنَى تَسَافَتُوا فَتَفْسِيرُهُ عَلَى الْمَعْنَى كَعَادَتِهِمْ فِي أَمْثَالِ ذَلِكَ لِسَانِ الْعَرَبِ، ج4، ص474، دار الحديث السَّيْفُ، الَّذِي يُضْرَبُ بِهِ، مَ مَعْرُوفٌ، وَأَسْمَاؤُهُ تُنْفِثُ عَلَى أَلْفٍ، وَذَكَرْتُهَا فِي الرُّوضِ الْمَسْلُوفِ فِيمَا لَهُ اسْمَانِ إِلَى الْأَلُوفِ، ج: أَسْيَافٌ، (وَسُيُوفٌ، وَعَلَيْهِمَا اقْتَصَرَ الْجَوْهَرِيُّ)، وَأَسْيَفٌ، وَهَذِهِ عَنِ اللَّحْيَانِيِّ، (وَمُسَيِّفَةٌ، كَمَسْخَةٍ، وَشَاهِدُ أَسْيَفٍ قَوْلُ الشَّاعِرِ، أَنشَدَهُ الْأَزْهَرِيُّ كَانَهُمْ أَسْيَفٌ بَيْضٌ يَمَانِيَّةٌ ... عَضْبٌ مَضَارِبُهَا بَاقِي بِهَا الْأَثَرُ)

وَسَافَةٌ، يَسْفُهُ: ضَرَبَهُ بِهِ، وَقَدْ {سَفَّهُ، فَأَنَّا} سَائِفٌ، نَقْلَهُ الْجَوْهَرِيُّ، وَهُوَ قَوْلُ الْفَرَّاءِ وَكَذَلِكَ: رَمَحْتُهُ، وَنَقْلَهُ الْكِسَائِيُّ أَيْضًا. وَرَجُلٌ سَائِفٌ: ذُو سَيْفٍ، نَقْلَهُ الْجَوْهَرِيُّ تاج العروس، ج12، ص291، دار الفكر

WHEN DOES THE DISTANCE OF SAFAR BEGIN?

Q: A person lives in london. Does he become musafir 48 miles from his house or is it 48 miles from his city london. I wanted to ask a person is a musafir and is returning home. Does his musafir benefits end when he enters a city like london or does it end when he is within 48 miles radius of his city london.

In principle, when a person makes the intention of travelling 48 miles or more from his residence, he will be regarded as a musāfir once he leaves the city limits, meaning the furthest residential buildings of the city. The count of 48 miles will commence from leaving one's residence with the intention of safar (travel). However, in order for one to be regarded as a musāfir, it is a condition that he leaves the city limits.

Hence, if one travels 48 miles from his residence but remains within the city limits, he will not be regarded as a musāfir. If, on the other hand, a person has the intention of travelling over 48 miles from his residence and before completing 48 miles he has left the city, he will be regarded as a musāfir and will only begin to make qasr from that point on. This is regardless of whether his journey exceeds 48 miles from the boundaries of the city or not. If a musāfir is returning to his hometown of London, his safar will only terminate once he has re-entered the city limits. When he is within a 48 miles radius of the city, he will still be regarded as a musāfir.

Note: The distance of 48 miles in the above answer refers to Shar'ī miles. In terms of standard English miles, this amounts to 55 miles (88.8 km). (See below research)

The Distance of Safar According to the Hanafī Madhhab:

The original position of the Hanafī madhhab is that a person becomes a musāfir once he crosses the furthest residential buildings of his city or village with the intention of travelling a distance of three days. Hence, a three-day journey is regarded as the distance of safar. This is calculated based on a moderate paced walk or a camel ride between dawn and zenith of the three shortest days of the year in lands along or near the equator. If this distance is covered in a shorter length of time, one will be regarded as a musāfir despite not

having travelled for a full three days. The original madhhab did not stipulate any fixed measure for this distance. However, when it became difficult for common Muslims to estimate when exactly a “three-day journey” has been completed, the senior jurists stipulated fixed measurements for the safar distance. Three views in particular became popular:

1. 15 Farsakhs
2. 18 Farsakhs
3. 21 Farsakhs

The majority of the imāms of Khawārizm favoured the first view and gave fatwā according to it. This view has also been reported from Imām Muhammad , and Imām al-Kāsānī (d. 587 H) supports it in his *Badā’i’ al-Sanā’i’*, stating that approximately 5 farsakhs are normally traversed in one day of travel. Most of the senior jurists favoured the second view and gave fatwā on it, including the author of *al-Muhīt al-Burhānī*, Imām Burhān al-Dīn Mahmūd Ibn Māzah al-Bukhārī (d. 616 H), and the author of *al-Hidāyah*, Imām Burhān al-Dīn al-Mar-ghinānī (d. 593 H).

A farsakh is equivalent to 3 Shar‘ī miles. 1 Shar‘ī mile amounts to 4000 cubits or approximately 2000 yards. This equates to 1.15 English miles or 1.85 km . Hence, 15 farsakhs (45 Shar‘ī miles) is equal to 51.7 English miles or 83.3 kilometres, and 18 farsakhs (54 Shar‘ī miles) is equal to 62 English miles or 99.9 kilometres.

Imām Mālik narrates in his *Muwatta’* from Ibn ‘Umar (may Allāh be pleased with him) and Ibn ‘Abbās (may Allāh be pleased with him) that they would regard the distance of safar as 4 barīds . Imām al-Bukhārī also narrates this view in his *Sahīh* from them .

Moreover, Imām Muhammad narrates with an authentic chain from Ibn ‘Umar (may Allāh be pleased with him) that he regarded the safar distance as a moderate three-day journey. Mawlānā Zafar Ahmad al-Thānawī states that this suggests that a moderate three-day journey is the same as a journey of four barīds according to him. 1 barīd is equal to 4 farsakhs or 12 Shar‘ī miles. Hence, 4 barīds amounts to 48 Shar‘ī miles. This is equivalent to 55 English miles or 88.8 kilometres.

The view of 4 barīds was upheld by Imām Mālik, Imām Ahmad and Imām al-Shāfi‘ī according to one transmission from him . Moreover, it is supported by a narration from the Prophet (peace be upon him) himself, albeit with a problematic chain. This is not very different from the view of 15 farsakhs which was reported from Imām Muhammad, supported by Imām al-Kāsānī and on which the imāms of Khawārizm gave fatwā. Based on these considerations, many of the senior jurists of Deoband favoured the view of 4 barīds or 48 Shar‘ī miles. Hence, Mawlānā Rashīd Ahmad Gangohī supported this view , followed by ‘Allāmah Anwarshāh al-Kashmīrī , ‘Allāmah Shabbīr Ahmad al-‘Uthmānī , Mawlānā Zakariyyā al-Kāndhlewī , Mawlānā Yūsuf al-Binnorī and Mawlānā Zafar Ahmad al-‘Uthmānī . It is also the favoured view of Shāh Waliullāh al-Muhaddith al-Dehlawī.

Hence, the view of 4 barīds or 48 Shar‘ī miles (55 miles/88.8 kilometres) is the favoured view according to us.

ومن أسلم منهم في دار الحرب، فلم يأسروه بل تركوه على حاله أو لم يعلموا بإسلامه، فهو في صلاته بمنزلة المسلم في دار الإسلام: يتم صلاته إذا كان في منزله، فإن خرج من منزله قاصدا مسيرة السفر قصر الصلاة (أي: بعد الخروج من مصر) (المحيط البرهاني، إدارة القرآن، ج2 ص400)

السفر الذي تتغير به الأحكام...أن يقصد الإنسان موصعا بينه، أي: بين القاصد، وبين ذلك الموضع مسيرة ثلاثة أيام...ومن خرج مسافرا (صلى ركعتين إذا فارق بيوت مصر) (الباب في شرح الكتاب، دار البشائر الإسلامية، ج2 ص9-236)

ودل عليه ما في الأوجز: وقال الشوكاني:....واختلفوا فيما قبل الخروج من البيوت، فذهب الجمهور إلى أنه لا بد من مفارقة جميع البيوت، وذهب بعض الكوفيين إلى أنه إذا أراد السفر يصلي ركعتين ولو كان في منزله...وفي المغني لابن قدامة:....وعن عطاء وسليمان بن موسى أنهما كانا يبيحان القصر في البلد لمن نوى السفر، وعن الحارث بن أبي ربيعة أنه أراد سفرا فصلى بالجماعة في منزله ركعتين، وفهم الأسود بن يزيد وغير واحد من أصحاب عبد الله، وعن عطاء أنه قال: إذا دخل عليه وقت صلاة بعد خروجه من منزله قبل أن يفارق بيوت المصر يباح له القصر، وقال مجاهد: إذا ابتدأ السفر بالنهار لا يقصر حتى يدخل الليل وإذا ابتدأ بالليل لا يقصر حتى يدخل النهار (أوجز المسالك، دار القلم، ج 3 ص 190-189)

(من قصد سيرا وسطا ثلاثة أيام ولياليها وفارق بيوت بلده...قصر فرضه الرباعي (شرح الوقاية، مؤسسة الوراق، ص 6-175 (فعرفنا أن الشرط للقصر واعتبار الرجل مسافرا) أن يتخلف من عمرات المصر (المحيط الرباعي، إدارة القرآن، ج 2 ص 387 قلت: رأيت المسافر هل يقصر الصلاة في أقل من ثلاثة أيام؟ قال: لا. قلت: فإن سافر مسيرة ثلاثة أيام فصاعدا؟ قال: يقصر الصلاة حين يخرج من مصره (الأصل للإمام محمد، دار ابن حزم، ج 1 ص 231) فإذا قصد مسيرة ثلاثة أيام قصر الصلاة حين يتخلف عمران المصر لأنه ما دام في المصر فهو ناوي السفر لا مسافر، فإذا جاوز عمران المصر صار مسافرا لاقتزان النية بعمل السفر (المبسوط، دار المعرفة، ج 1 ص 236) قال علماؤنا رحمهم الله تعالى: أدناها مسيرة ثلاثة أيام ولياليها...والمعنى في ذلك أن القصر في السفر لمكان الحرج والمشقة، والحرج والمشقة في أن يحمل رحله من غير أهله ويحطه في غير أهله، وذلك لا يتحقق فيها دون الثلاث، لأن في اليوم الأول يحمله من أهله، وفي اليوم الثاني

إذا كان في مقصده يحطه في أهله، وإنما يتحقق في الثلاث، لأن في اليوم الثاني يحمل رحله من غير أهله ويحطه من غير أهله فيتحقق معنى الحرج فلها قدر بثلاثة أيام ولياليها (المحيط الرباعي، إدارة القرآن، ج 2 ص 385) والفقهاء في تقدير المدة بثلاثة أيام أن الرخصة شرعت لإزالة مشقة الوحدة - وهو الإرتحال من عند غير الأهل والنزول في غيرهم - وذلك في اليوم الثاني، لأن في اليوم الأول: الإرتحال من الأهل والنزول في غيرهم، وفي اليوم الثاني: الإرتحال من غيرهم والنزول فيهم، وهذا إنما يتصور إذا كان له أهل في الموضوع الذي قصد (الجوهرة النيرة، مكتبة حقاينة، ص 102) أحسن الفتاوى، ج 4 ص

(مسافات قصر مبن 48 ميل سة مراد ميل شرعي هة جس كة انكريزي ميل تقريبا 54 (فتاوى خير المدارس، ج 2 ص 674 صحيح اور مناسب تر مسافات قصر، مولانا فضل الرحمن الأعظمي، ص 31-1 أحسن الفتاوى، ج 4 ص 100-91

قلت: رأيت المسافر هل يقصر الصلاة في أقل من ثلاثة أيام؟ قال: لا. قلت: فإن سافر مسيرة ثلاثة أيام فصاعدا؟ قال: يقصر الصلاة حين يخرج من مصره. قلت: ولم وقت ثلاثة أيام؟ قال: لأنه جاء أثر عن النبي صلى الله عليه وسلم أنه قال: لا تسافر المرأة ثلاثة أيام إلا ومعها ذو محرم، فقصت على ذلك، وبلغني عن إبراهيم النخعي وسعيد بن جبير أنهما قالوا إلى المدائن ونحوها. (الأصل للإمام محمد، دار ابن حزم، ج 1 ص 233-232) محمد عن يعقوب عن أبي حنيفة رحمهم الله: رجل خرج من الكوفة إلى المدائن قال: قصر وأقصر، ويقصر في مسيرة ثلاثة أيام ولياليها سير الإبل ومشي الأقدام (الجامع الصغير مع النافع الكبير، إدارة القرآن، 108-109)

قال أبو حنيفة: لا تقصر الصلاة في أقل من ثلاثة أيام ولياليها بسير الإبل ومشي الأقدام، وقال أهل المدينة: تقصر الصلاة في أربعة برد، وذلك ثمانية وأربعون (ميلا (الحجة على أهل المدينة، ج 1 ص 166)

(قال أبو جعفر: ومن سافر يريد مسيرة ثلاثة أيام فصاعدا قصر الصلاة إذا جاوز بيوت مصر، وإن سافر يريد ذلك لم يقصر (مختصر الطحاوي، ص 33 ولا اعتبار بالفراسخ...على المذهب لأن المذكور في ظاهر الرواية اعتبار ثلاثة أيام كما في الحبلية، وقال في الهادية: هو الصحيح، اختارنا عن قول عامة المشايخ (من تقديرها بالفراسخ (رد المحتار، دار عالم الكتب، ج 2 ص 602)

في الدر المختار: مسيرة ثلاثة أيام ولياليها من أقصر أيام السنة، ولا يشترط سفر كل يوم إلى الليل بل إلى الزوال، ولا اعتبار بالفراسخ على المذهب، بالسر (الوسط مع الإستراحات المعتادة حتى لو أسرع فوصل في يومين قصر (رد المحتار، دار عالم الكتب، ج 2 ص 603-601)

في رد المحتار: المراد من التقدير بأقصر أيام السنة إما هو في البلاد المعتدلة التي يمكن قطع المرحلة المذكورة في معظم اليوم من أقصر أيامها، فلا يرد أن أقصر أيام السنة في بلاد بلغار قد يكون ساعة أو أكثر أو أقل فيلزم أن يكون مسافة السفر فيها ثلاث ساعات أو أقل، لأن القصر الفاحش غير معتبر كالطول الفاحش (رد المحتار، دار عالم الكتب، ج 2 ص 602) فنقدرة مسيرة ثلاثة أيام ولياليها من أقصر أيام الشتاء لأن الأيام للمشي والليالي للإستراحة، وبعض المشايخ رحمهم الله قدرها بالفراخ فمنهم من قدرها بخمسة عشر فرسخا ومنهم من قدرها بثمانية عشر فرسخا ومنهم من قدرها بأحد وعشرون فرسخا ومنهم (من قدرها بثلاث مراحل (شرح الجامع الصغير للفاضلان، ص 298-297

في الدر المختار: مسيرة ثلاثة أيام ولياليها من أقصر أيام السنة، ولا يشترط سفر كل يوم إلى الليل بل إلى الزوال، ولا اعتبار بالفراخ على المذهب، بالسري (الوسط مع الإستراحات المعتادة حتى لو أسرع فوصل في يومين قصر (رد المحتار، دار عالم الكتب، ج 2 ص 603-601 (فإن كان بينه وبين مقصده مسيرة ثلاثة أيام ولياليها ويقصر الصلاة وإن قطعها في أقل منها (شرح الجامع الصغير للفاضلان، ص 298 وكذا في الفتح من أنه قيل: يقدر بأحد وعشرين فرسخا، وقيل بثمانية عشر، وقيل بخمسة عشر، وكل من قدر منها اعتقد أنه مسيرة ثلاثة أيام أي بناء على اختلاف البلدان، فكل قائل قدر ما في بلده من أقصر الأيام (رد المحتار، دار عالم الكتب، ج 2 ص 60-601

السفر الذي تتغير به الأحكام أن يقصد الإنسان موضعا بينه وبين مقصده مسيرة السفر ثلاثة أيام يسير الإبل ومشى الأقدام... ط معنى قوله: مسيرة ثلاثة أيام أي مع الإستراحات التي تتخللها، سطر ثلاثة أيام من أقصر أيام الشتاء المعتبر سير العير لأنه الوسط، ط وروي ثلاث مراحل وهو قريب من الأول... وعامة مشايخنا قدروها بالفراخ: إحدى وعشرون فرسخا وقيل: ثمانية عشر فرسخا وعليه الفتوى، وقيل: بخمسة عشر، وبه أفنى أكثر أئمة خوارزم، وعن مالك (والشافعي في قول: ستة عشر فرسخا (المجتبى، مخطوط، 45/ب

واختلفت أقوال الشافعي فيه، قيل: ستة وأربعون ميلا، وهو قريب من قول بعض مشايخنا، لأن العادة أن القافلة لا تقطع في يوم أكثر من خمسة فراسخ (بدائع الصنائع، ج 1 ص 468) والفتوى على ثمانية عشر لأنها أوسط الأعداد (المحيط البرهاني، إدارة القرآن، ج 2 ص 385 ثم اختلفوا، فقيل: أحد وعشرون وقيل ثمانية عشر وشيل خمسة عشر، والفتوى على الثاني لأنه الأوسط، وفي المجتبى: فتوى أئمة خوارزم على الثالث (رد المحتار، ج 2 ص 602

قال المرغيناني: وعامة المشايخ قدروها بالفراخ، فقيل: أحد وعشرون فرسخا وقيل ثمانية عشر فرسخا، قال المرغيناني: وعليه الفتوى، وقال العتاي في جوامع (الفقه وهو المختار، وقيل: خمسة عشر فرسخا، واختيار صاحب الهداية أولى (شرح منية المصلي، ص 335 وقال المرغيناني: وعامة المشايخ قدروها بالفراخ، فقيل: أحد وعشرون فرسخا، وقيل: ثمانية عشر فرسخا، قال المرغيناني: وعليه الفتوى (البناءة شرح الهداية، دار الكتب العلمية، ج 3 ص 4) الفرسخ ثلاثة أميال، والميل: أربعة آلاف ذراع (رد المحتار، ج 2 ص 602) جواهر الفقه، ج 3 ص 424، أحسن الفتاوى، ج 4 ص 93 وحديثي عن مالك عن ابن شهاب عن سالم بن عبد الله عن أبيه أنه ركب إلى ريم، فقصر الصلاة في مسيرة ذلك، قال يحيى: قال مالك: وذلك نحو من أربعة برد، وحديثي عن مالك عن نافع عن سالم بن عبد الله أن عبد الله بن عمر ركب إلى ذات النصب فقصر الصلاة في مسيرة ذلك، قال يحيى: قال مالك: وبين ذات النصب والمدينة أربع برد... وحديثي عن مالك أنه بلغه أن عبد الله بن عباس كان يقصر الصلاة في مثل ما بين مكة والطائف وفي مثل ما بين مكة (وعساف، وفي مثل ما بين مكة وجدة، قال مالك: وذلك أربعة برد، وذلك أحب ما تقصر إلي فيه الصلاة (أوجز المسالك، دار القلم، ج 3 ص 179-186

(كان ابن عمر وابن عباس يقصران ويفطران في أربعة برد، وهو ستة عشر فرسخا (صحيح البخاري، مكتبة الملك فهد، ج 1 ص 309 محمد قال: أخبرنا سعيد بن عبيد الطائي عن علي بن ربيعة الوالي قال: سألت عبد الله بن عمر رضي الله تعالى عنهما: إلى كم تقصر الصلاة؟... قال: هي ثلاث ليال قواصد، فإذا خرجنا إليه قصرنا الصلاة. قال محمد: وبه نأخذ، وهو قول أبي حنيفة (كتاب الآثار، دار النوادر، ج 1 ص 204) وصححه في إعلاء السنن، إدارة القرآن، ج 7 ص 273

قلت: ولا خلاف بينه وبين أثر المتن، فإن التحديد بأربعة برد في هذا إما هو من عطاء لا من قول ابن عمر، فلا يلزم منه كون ابن عمر قائلًا بالتحديد بالبرد (والأميال، بل إن أقصر لكون المسافة مسافة ثلاثة أيام عنده، واتفق به كونها أربعة برد أيضا (إعلاء السنن، ج 7 ص 273 صحيح اوجر مناسب تر مسافت قصر، ص 3 إذا كان السفر ستة عشر فرسخا استباح الرخص، وبه قال أكثره... دليلنا: قوله صلى الله عليه وسلم: يا أهل مكة لا تقصروا في أقل من أربعة بردا من مكة إلى عساف، ولأنه مذهب ابن عباس وابن عمر وابن مسعود (رؤوس المسائل في الخلاف، دار خضر، ص 201

ISLAMIC TRANSLATION OF THE TORAH

Q: There was launched the very first Islamic translation of the Torah. The knowledge within is with quranic quotation to prove that the knowledge is not just valid for Jews but for Islam as well. This knowledge is due to the new generation thinkers- those who are here to carry Islam to an evolutionary level. It is set not just to prove that it is the leading religion –but the knowledge will raise us to becoming a ‘superior nation’- making us the leading group among all of creation. This book is advertised as such. I would like to ask if it’s permissible to purchase and read this Torah book?

A: To have faith in the divine scriptures that were sent down by Allah Ta’ālā to his prophets is an integral part of Muslim belief. These scriptures include the Torah, Injil and Zabūr. We believe Allah Ta’ālā sent these books to earlier prophets and placed in them orders and prohibitions, admonitions and reminders, reports of the past and prophecies of the future, glad tidings of paradise and warnings of hell, and so on. Allah Ta’ālā sent these books as a light and guidance for the peoples to whom they were sent. As Allah Ta’ālā states in the Qur’an:

إِنَّا أَنْزَلْنَا التَّوْرَةَ فِيهَا هُدًى وَنُورٌ

“Verily, We sent down the Torah, in which is guidance and light.”
(Qur’an, 5:44)

However, unlike the Qur’an which Allah Ta’ālā has Himself assured will be preserved for this ummah (Qur’an, 15:9), the preservation of earlier scriptures was entrusted to the learned men from the peoples to whom they were sent (Qur’an, 5:44). As a consequence, through time, these books were corrupted and distorted. Allah Ta’ālā says:

فويل للذين يكتبون الكتاب بأيديهم ثم يقولون هذا من عند الله

“Destruction to those (Jews) who write the book with their hands and then they say: ‘this is from Allah...’” (Qur’an, 2:79)

Because of this, the book presently referred to as the “Torah”, meaning, the first five books of the Old Testament, cannot be regarded as the original Torah that was revealed unto Mūsā (‘alayhissalām). Although some sections of it may conform to the original Torah, other sections were certainly distorted and corrupted. This is why part of the function of the Qur’an was to stand as a “guardian” (muḥaymin) against the accrued errors of previous scriptures. Allah Ta‘ālā says:

وأنزلنا إليك الكتاب بالحق مصدقا لما بين يديه من الكتاب ومهيمنا عليه

“We have sent down to you [O Muhammad (sallAllāhu ‘alayhi wa-sallam)] the Book with truth, confirming the book before it, and a guardian of it.” (Qur’an, 5:48)

The passages of the Torah fall into three categories: first, those passages which are in clear opposition to the Qur’an and hadiths; second, those passages which are confirmed by the Qur’an and hadiths; and third, those passages which are neither confirmed nor rejected by the Qur’an and hadith. The first category of passages must be rejected, the second is accepted, and with respect to the third, which forms the bulk of the present “Torah,” we are to hold a neutral position, neither believing in any of it nor denying any of it.

It is reported in Sahih al-Bukhārī:

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ، قَالَ : كَانَ أَهْلُ الْكِتَابِ يَقْرَءُونَ التَّوْرَةَ بِالْعِبْرَانِيَّةِ، وَيَفْسُرُونَهَا بِالْعَرَبِيَّةِ لِأَهْلِ الْإِسْلَامِ، فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا تَصَدَّقُوا أَهْلَ الْكِتَابِ وَلَا تَكْذِبُوهُمْ وَقُولُوا آمَنَّا بِاللَّهِ وَمَا أُنْزِلَ إِلَيْنَا

“The Ahl al-Kitāb would recite the Torah in Hebrew and interpret it in Arabic for the Muslims, so the Messenger of Allah (Allah bless him and grant him peace) said: ‘Do not believe the people of the book and do not belie them, but say: ‘We believe in Allah and what was revealed to us.’”

Furthermore, the Qur’an and Sunnah are sufficient for our guidance. By looking in the Torah or earlier scriptures, we subject ourselves to the wrath of Allah Ta‘ālā and His Messenger (sallAllāhu ‘alayhi wa-sallam), as it gives the impression that we are searching for guidance elsewhere. Consider the following report:

عَنْ جَابِرٍ رَضِيَ اللَّهُ عَنْهُ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ رِضْوَانُ اللَّهِ عَلَيْهِ أَتَى رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِنُسْخَةٍ مِنَ التَّوْرَةِ، فَقَالَ : يَا رَسُولَ اللَّهِ، هَذِهِ نُسْخَةٌ مِنَ التَّوْرَةِ، فَسَكَتَ، فَجَعَلَ يَقْرَأُ وَوَجْهَهُ رَسُولُ اللَّهِ يَتَغَيَّرُ، فَقَالَ أَبُو بَكْرٍ رَحِمَهُ اللَّهُ عَلَيْهِ : تَكَلَّمْتَ التَّوَاكِيلَ، مَا تَرَى يَوْجَهُ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَتَنْظُرُ عُمَرُ إِلَى وَجْهِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ : أَعُوذُ بِاللَّهِ مِنْ غَضَبِ اللَّهِ، وَمِنْ غَضَبِ رَسُولِهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَضِينَا بِاللَّهِ رَبًّا، وَبِالْإِسْلَامِ دِينًا، وَمُحَمَّدٍ نَبِيًّا، فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : ” وَالَّذِي نَفْسُ مُحَمَّدٍ بِيَدِهِ، لَوْ بَدَأَ لَكُمْ مُوسَى فَاتَّبَعْتُمُوهُ وَتَرَكْتُمُونِي، لَضَلَلْتُمْ عَنْ سَوَاءِ السَّبِيلِ، وَلَوْ كَانَ حَيًّا وَادْرَكَ بُيُوتِي لَاتَّبَعَنِي ”

“On the authority of Jābir (may Allah be pleased with him): ‘Umar (may the pleasure of Allah be upon him) produced a copy of the Torah to the Messenger of Allah (Allah bless him and grant him peace), and he said:

‘O Messenger of Allah, this is a copy of the Torah,’ and he remained quiet. Then he began to read (it) whereupon the face of the Messenger of Allah changed, so Abū Bakr (may Allah have mercy on him)

said: ‘May the bereaved mothers lose you! Do you not see the face of the Messenger of Allah?!’ So ‘Umar looked at the face of the Messenger of Allah (Allah bless him and grant him peace), and he said: ‘I seek refuge in Allah from the anger of Allah and from the anger of His Messenger. We are content with Allah as Lord, Islam as religion and Muhammad as Prophet.’ The Messenger of Allah said: ‘By the One in Whose hand is the soul of Muhammad! Had Mūsā appeared before you and you followed him and you abandoned me, you would have strayed from the straight path. If he was alive and he witnessed my prophethood, he would have followed me.’” (Sunan al-Dārimī)

As a consequence, some of the Fuqahā have mentioned that it is not permissible to look in the “Torah,” regardless of whether non-Muslims have translated it for us or Muslims.

Hence, our advice is that this new translation should not be supported by, or spread amongst, Muslims. Instead, we should assert as did ‘Umar (radiy Allāhu ‘anhū) when he saw displeasure on the face of Rasūlullāh (sallAllāhu ‘alayhi wasallam): “We are content with Allah as Lord, Islam as religion and Muhammad as Prophet.”

مسند الدارمي المعروف بسنن الدارمي، دار المغني، ٣٠٤:١
قال محققه: الحديث حسن

وَاحْتَارَ سَيِّدِي عَبْدُ الْعَزِيزِ مَا فِي الْخُلَاصَةِ، وَأَطَالَ فِي تَقْرِيرِهِ، ثُمَّ قَالَ: وَقَدْ نُهِيتَا عَنِ النَّظَرِ فِي شَيْءٍ مِنْهَا سِوَاءَ تَقْلِيدِ الْإِنْبَاءِ الْكُفَّارِ أَوْ مَنْ أَسْلَمَ مِنْهُمْ.
رد المحتار، إيج إيم سعيد، ٥٧١:١

NATIONAL ANTHEM IN ISLAMIC SCHOOLS

Q: Can you please provide us with some guidelines regarding the national anthem being sung by our school during its various functions? Is it permissible, standing up for it, placing hands on chest etc..?

A : The National Anthem: Background:

A national anthem (also national hymn, song etc.) is generally a patriotic musical composition that evokes and eulogizes the history, traditions and struggles of its people, recognized either by a nation's government as the official national song, or by convention through use by the people.

The national anthem of South Africa, *Nkosi Sikelel' iAfrika* was composed in 1897 by Enoch Sontonga, a Methodist school teacher. It was originally sung as a church hymn but later became an act of political defiance against the apartheid Government. *Die Stem van Suid-Afrika/The Call of South Africa* was written by C.J. Langenhoven in 1918. "Die Stem" was the co-national anthem with *God Save the King/Queen* from 1936 to 1957, when it became the sole national anthem until 1994. The South African Government under Nelson Mandela adopted both songs as national anthems from 1994 until they were merged in 1997 to form the current anthem.

The lyrics of the anthem employ the five most populous of South Africa's eleven official languages - isiXhosa (first stanza, first two lines), isiZulu (first stanza, last two lines), seSotho (second stanza), Afrikaans (third stanza) and English (final stanza).

The National Anthem: What does it mean?

The national anthem could mean different things for different people. For some, it could be an expression of being a proud citizen having the choice to do whatever he believes in, for others it could mean celebrating unity in diversity and for others it could mean celebrating the success of the liberation struggle. Generally, the underlying spirit and motive of the national anthem is to spur nationalism and patriotism. This is also understood from the rulings of the courts in the USA when a school wanted to make singing the national anthem compulsory. The court ruled against it and stated that the school cannot impose patriotism on the students. Children should be left free to inculcate and develop their own minds and feelings. The courts in South Africa have not yet ruled on the issue. Since the general purpose of the national anthem is an expression of patriotism, we wish to highlight that angle in our Fatwaa.

Recognition of Diversity and Patriotism in Shariah:

Moderation is the hallmark of Islam. Any deviation towards negligence or extremism is condemned. Shariah gives recognition to every natural angle and dimension of human beings, from the male gender to the female gender, from blood relations to milk relations, from families to tribes and from nations to trans-nations.

Consider the following verses:

يا أيها الناس انا خلقناكم من ذكر و أنثي

Translation: “Oh People! Indeed we have created you from male and female” (Surah Hujurat, 13)

وجعلناكم شعوبا و قبائل

Translation: “And we have created you as Nations and Tribes” (Ibid)

يأيتها الذين آمنوا لا يسخر قوم من قوم

Translation: “Oh you who believe! One nation should not look down upon another nation” (Surah Hujuraat, 11)

Shariah also appreciates the diverse values and practices emanating through gender, family, cultural, ethnic and national differences and accordingly have laws governing such issues. The divine reason given for the categorization of human beings as tribes, families and nations in mutual recognition and respect for each other. After explaining the basics of human beings, Allah (Subahanahu Wa Ta’ala) says:

لتعارفوا

Translation: “So that you may recognize each other”
(Surah Hujuraat, 13)

Patriotism:

It is natural for a human being that is born and brought up in a particular tribe or country to love his tribe and country. This is also appreciated and recognized in Shariah. Hazrath Bilal (Radhiyallahu Anhu) migrated to Madeenah Munawwarah and he fell sick. He began thinking of valleys, trees, and water wells of his native land, Makkah Mukarramah and expressed his wish in poetic form. Consider the following Hadeeth:

حدثنا قتيبة عن مالك عن هشام بن عروة عن أبيه عن عائشة أنها قالت لما قدم رسول الله صلى الله عليه وسلم المدينة وعك أبو بكر وبلال رضي الله عنهما قالت فدخلت عليهما وكان بلال إذا أقلعت عنه يقول

ألا ليت شعري هل أبيتن ليلة
بواد وحوالي إذ خر وجليل
وهل أردن يوما مياه مجنة وهل تبدون لي شامة وطفيل

Translation: Aisha (Radhiyallahu Anha) says that Rasullullah (Salallahu Alayhi Wa Sallam) came to Madeenah and Abu Bakr and Bilal (Radhiyallahu Anhuma) did not agree with the climate of

Madeenah. She further states: “Whenever the fever would subside from Bilal, he would say: “If only I could spend one night in a valley with Izkhir and Jaleel around me and how I wish for a day when I would drink the water of Mijannah and How I wish Shamah and Tufail would appear before me.” (Saheeh al-Bukhair, Hadeeth # 5330) The books of Hadeeth have dedicated chapters on the recognition of the various tribes, for example the Quraish:

قال رسول الله صلى الله عليه وسلم : الناس تبع لقريش في الخير والشر

Rasullullah (Sallallahu Alayhi Wa Sallam) said: “Mankind are followers of the Quraish in good and bad” (Musannaf, Hadeeth # 4755) Rasullullah (Sallallahu Alayhi Wa Sallam) also mentioned the other tribes.

قريش و الأنصار و جهينة و مزينة و أسلم و غفار , أشجع موالي, ليس لهم مولي دون الله و رسوله

Rasullullah (Sallallahu Alayhi Wa Sallam) said: “The Quraish, Ansaar, Juhainah, Muzainah, Aslam, Ghifaar and Ashja are masters, they do not have any master except Allah and His messenger” (Bukhari, Hadeeth # 3512)

The recognition given to the various tribes induces a sense of honour and pride in its members.

Overarching Principle:

Whilst there is general recognition of diversity in ethnicity and nationality, if there is a good quality or moral that enhances the value of the tribe or nation, that is also recognized and praiseworthy.

حدثنا ابن أبي عمر حدثنا سفيان بن عيينة عن أبي الزناد عن الأعرج عن أبي هريرة ح وعن ابن طاوس عن أبيه عن أبي هريرة قال قال رسول الله صلى الله عليه وسلم خير نساء ركن الإبل قال أحدهما صالح نساء قريش وقال الآخر نساء قريش أحناه على يتيم في صغره وأرعاه على زوج في ذات يده

Translation: Rasullullah (Sallallahu Alayhi Wa Sallam) said “The best women are those who ride camels, one of the narrators said “The pious Quraishi women and the other narrator said “The women of the Quraish, the most kind to an orphan in infancy and most considerate to her husband’s wealth and possessions.” (Saheeh Muslim, Hadeeth #2527)

Conversely, if there is anything un- Islamic, for example oppression based on patriotism, that will be condemned.

و عن بنت وائلة ابن الأسقع أنها سمعت أباها يقول : قلت: يا رسول الله: ما العصبية؟ قال: أن تعين قومك على الظلم

“Hadhrat Wathila Bin Asqa asked Rasullullah (Sallallahu Alayhi Wa Sallam): What is Asabiyyah? He replied: To assist your nation/people upon oppression.” (Abu Dawood, Hadeeth # 5119)
Rasullullah (Sallallahu Alayhi Wa Sallam) said:

عَنْ جُبَيْرِ بْنِ مُطْعِمٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ : (لَيْسَ مِنَّا مَنْ دَعَا إِلَى عَصَبِيَّةٍ وَلَيْسَ مِنَّا مَنْ قَاتَلَ عَلَى عَصَبِيَّةٍ وَلَيْسَ مِنَّا مَنْ مَاتَ عَلَى عَصَبِيَّةٍ

“He who invites towards Patriotism, fights because of Patriotism and dies upon Patriotism is not from amongst us” (Abu Dawood, Hadeeth # 5121)

Hadhrat Moulana Khalil Ahmed Saharanpuri (Rahmatullahi Alayhi) states under the commentary of this Hadeeth that “The meaning of dying on Asabiyyah is that Asabiyyah becomes entrenched in the heart of the person and one becomes desirous of Asabiyyah even though he did not invite anyone nor did he kill anyone.”

Patriotism has a tendency of evoking deep emotions in a person which could overshadow the correct and proper thinking of an individual. Such a person is robbed with his moderation, justice and

fairness. Consider the following thought provoking incident of patriotism that took place at the time of Rasullullah (Sallallahu Alayhi Wa Sallam) and Rasullullah (Sallallahu Alayhi Wa Sallam)'s response to such patriotism.

أخبرنا ابن جريج قال : أخبرني عمرو بن دينار أنه سمع جابرا يقول: غزونا مع النبي و قد ثاب معه ناس من المهاجرين حتي كثروا ، و كان من المهاجرين رجل لعاب فكسع أنصاريا، فغضب الأنصاري غضبا شديدا، حتي تداعوا، و قال الأنصاري: يا للأنصار و قال المهاجري: يا للمهاجرين، فخرج النبي فقال: ما بال دعوي أهل الجالية؟ ثم قال: ما شأنهم، فأخبر بكسعة المهاجري الأنصاري، فقال النبي: دعواها فانها خبيثة

Hadhrat Amr Bin Deenar narrates that he heard Jabir saying: “We went out in battle with Nabi (Sallallahu Alayhi Wa Sallam) and a group of Muhajireen also joined until they increased, and there was a very playful/jovial man from the Muhajireen and he hit an Ansari on the back, the Ansari became very angry until they both rallied for support. The Ansari said: Oh Ansar! Help me. And the Muhajir said: “Oh Muhajireen! Help me. Nabi (Sallallahu Alayhi Wa Sallam) emerged and enquired: What is the condition of the claim of the people of Jahiliyyah? Then he said: “What is their matter? Then he was informed of the Muhajir’s hitting of the Ansari. Then Nabi (Sallallahu Alayhi Wa Sallam) said: leave that for verily it is filthy”. (Bukhari, Hadeeth # 3519)

Shariah Analysis of singing the National Anthem:

The National Anthem is generally sung at official government platforms and national events. It is generally observed that the nationalistic and patriotic sentiments and emotions of the participants of such events are stirred up and ignited. The feelings of National Pride, Patriotism and National Loyalty are instilled and entrenched in the hearts of the participants of such events. This is clearly understood from the emotional reactions of the citizens and supporters of one’s national team.

The concept of Patriotism is highly debated. Patriotism is a nationalistic feeling of pride that manifests itself in small and big ways. Some say it is a civic virtue while others believe it is a dangerous way of thinking. There are some positives in Patriotism like unity and obedience. People of a country tend to be united on nationalistic issues and also tend to obey their government. Others believe that Patriotism is bad and has many negative consequences such as inculcating a conformist attitude to the Government of the time. This leads to complacency against the evils emanating from the Government. Extreme Patriotism leads to a sense of superiority of one's nation and creates a sense of inferiority for others.

According to Shariah, the good of anything is good and the bad of anything is bad. The ruling of the national anthem could be analogous to poetry. Poetry itself is not prohibited. The good of poetry is good and the bad of poetry is bad.

Consider the following Hadeeth:

Rasullullah (Sallallahu Alayhi Wa Sallam) said:

الشعر بمنزلة الكلام فحسنه كحسن الكلام و قبيحه كقبيح الكلام

Translation: Rasullullah (Sallallahu Alayhi Wa Sallam) said “Poetry is like speech. The good poetry is like good speech and the evil poetry is like evil speech” (Tabrani)

However, excessive poetry has a potential of many negative effects and therefore we are warned against such dangers of excessive poetry.

Rasullullah (Sallallahu Alayhi Wa Sallam) said:

و عن ابي الزعراء قال: قال عبد الله يعني ابن مسعود: لأن يمتلئ جوف الرجل قيحا، خير له من أن يمتلئ شعرا

Translation: It is narrated from Hadhrat Abdullah Bin Mas'ood that "It is better that the mouth of a person be filled with pus than being filled with poetry" (Tabrani)

وَجْهَهُ عِنْدِي أَنْ يَمْتَلِئَ قَلْبُهُ مِنَ الشَّعْرِ حَتَّى يَغْلِبَ عَلَيْهِ فَيَشْغَلَهُ عَنِ الْقُرْآنِ وَعَنْ ذِكْرِ اللَّهِ فَيَكُونُ الْغَالِبُ عَلَيْهِ فَأَمَّا إِذَا كَانَ الْقُرْآنُ وَالْعِلْمُ الْغَالِبَيْنِ عَلَيْهِ فَلَيْسَ جَوْفُهُ مُمْتَلِئًا مِنَ الشَّعْرِ (فتح الباری، ج 01، ص 945، دار المعرفة - بیروت)

The Muhadditheen have mentioned that the reprehensibility for poetry in the above Hadeeth occurs when poetry overpowers one and makes one negligent of reciting the Qur'an and making the Zikr of Allah. While we acknowledge that the national anthem represents some broad Islamically accepted principles, etc, it also has a potential of un-Islamic factors in it for example:

- 1) Inducing a conformist attitude. There are many un-Islamic values and practices in a nation. It is incorrect for a Muslim to agree and conform to such values.
- 2) Inducing Superiority and the feeling of inferiority of others. This too is un-Islamic. Rasullullah (Sallallahu Alayhi Wa Sallam) said:

يا أيها الناس ألا إن ربكم واحد وإن أباكم واحد ألا لا فضل لعربي على أعجمي ولا لعجمي على عربي

Translation: Rasullullah (Sallallahu Alayhi Wa Sallam) said "Oh People! Indeed your Rabb is one and your father is one. Behold! There is no virtue for an Arab over a non-Arab and for a non-Arab over an Arab" (Musnad Ahmad, Hadeeth # 22391)

The un-Islamic conduct of national superiority is evident from citizens of first class countries.

3) There are a host of other negative consequences of patriotism like xenophobia, jingoism, warfare, etc.

The purpose of introducing singing the national anthem at Islamic schools is to induce patriotism in the students and make them feel proudly South African. While we appreciate being South African citizens due to enjoying many human and religious values in our beautiful country and maintain a co-operative relationship with our Government and citizens, we have to guard and protect our Islamic ethos from being overshadowed by anything else. We therefore advise against introducing the singing of the national anthem at Islamic schools.

As an Ummah, we transcend cultural, geographical and national boundaries and bind ourselves universally with the value and reverence of the Kalimah.

http://en.wikipedia.org/wiki/National_anthem, last accessed at 22/05/2013.

بذل المجهود، ج 31، ص 415، البشائر

USHAKA MARINE WORLD TICKET RESALE

Q: Is it allowed to resell tickets of theme parks such as uShaka Marine World, whereas the tickets explicitly state that they are not for resale?

A: It is allowed to resell the tickets as long as the tickets can still be used by the purchaser. The restriction of resale is invalid.

درر الحکام فی شرح مجلة الأحکام، علي حيدر خواجه أمين أفندي، 1353هـ فهمي الحسيني، دار الجیل، الأولى، 1411هـ - 1991م، پاکستان، 1406 هـ 4

- المادة (587) للمستأجر إيجار ما لم يتفاوت استعماله وانتفاعه باختلاف الناس لأجر. للمستأجر إيجار المأجور كالدور والأراضي ما لم يتفاوت (1 673)
- استعماله باختلاف المستعملين، الانتفاع به على أن تستوفي المنفعة التي يقتدر على استيفائها في مدة الإجارة، ولو ببدل زائد عن بدل الإجارة وإعارته أو إيداعه، ولو شرط المؤجر أن يستعمله المستأجر بنفسه، وإن ليس له إيجاره من غيره
- أولاً: لو استأجر أحد حماماً على أن يشتغل فيه بنفسه، ثم بعد ذلك أجره من آخر وسلمه إياه، فليس للأجر الأول أي لصاحب الحمام أن (1 673)
- يفسخ الإجارة قبل تمام مدتها بداعي أن المستأجر لم يضبطه هو وأجره من آخر، فلا يرضى بذلك (البهجة). وليس للأجر أن يطلب الأجرة التي على المستأجر الأول من المستأجر الثاني، بل له أن يطلبها من المستأجر الأول " فتاوى ابن نجيم " انظر الشرح المحرر في أول الفصل الثاني في الباب الثاني
- المادة (428) كل ما لا يختلف باختلاف المستعملين فالتقييد فيه لغو، مثلاً: لو استأجر أحد داراً على أن يسكنها له أن يسكن غيره فيها. (راجع المادة) [1 463]
- (528) يعني أنه لو استأجر أحد داراً بشرط أن يسكنها هو؛ فله إيجارها من غيره وإعارتها لاستيفاء المنفعة التي له أن يستوفيها بموجب المادة 426؛ لأن السكنى لما لم تكن متفاوتة لم يعتبر ذلك القيد؛ لأنه غير مفيد

ULAMA – BACKWARDS?

Q: Do you know that some of our Ulamaa' (Scholars) issued Fatwas, like below:

(1) Translation of Quran in any other language was prohibited by Fatwas till about 1000 AD. Now Ulamaa' allow it.

(2) 300 years ago, when clocks and watches were invented; use of those devices for prayer times was not allowed by Ulamaa'. Now they allow it.

(3) 120 years ago, in India, calculated Prayer Times were not acceptable per Fatwas by Ulamaa'. Now they allow it.

(4) 60 years ago, loud speakers use for Prayers was considered Haraam, per Fatwas by Ulamaa' in Indo-Pak. Now they allow it.

(5) 50 years ago, taking picture for ID or passports was considered Haraam, per Fatwas by Ulamaa' Now they allow it.

Now, all of the above is considered, not only allowed, but people don't even know that these were not allowed before. Why, it takes decades for Ulamaa' to accept such things?

Some of Our Ulamaa were reluctant to do Ijtihad for new things; Are the doors of Ijtihad closed forever??

A : In your introduction of the conduct and attitude of 'Ulamā, you present five examples with the heading: 'Do you know....?'

Do **you** know? While you ride the saddle of criticism, you are actually alleging, and the burden of substantiating your claims lies on you. Whilst you seem to have sourced the information in the question from the aforementioned website, due to your manipulation of certain facts and restructuring of some statements, we shall treat all such information which has been transformed as your personal opinion as it cannot be attributed to the website. You state:

1. 'Translation of Quran in any other language was prohibited by Fatwas till about 1000 AD. Now Ulamaa' allow it.'

Firstly, you have displayed lack of academic honesty by misrepresenting the facts stated in the actual source. The website, www.moonsighting.com, states, '150 years ago, translating Qur'an in any

other language was considered a tabu, and was not allowed per Fatwas by Ulamaa of that time.' You have inflated 150 years by 850 years more. The reason is obviously to sensationalise your facts.

Secondly, the author of such a statement has misunderstood the prohibition. Our 'Ulamā had prohibited the publication of such translations which were not accompanied by the Arabic text of the Qur'ān. To state that translation of the Qur'ān was prohibited is false. It was always permissible to translate the Qur'ān with the Arabic text.

2. '300 years ago, when clocks and watches were invented, use of those devices for prayer times was not allowed by Ulamaa'. Now they allow it.' To set the record right, clocks and watches were invented over 500 years ago. Nonetheless, we are unaware of such a prohibition. What is the academic reference for such a claim?

3. '120 years ago, in India, calculated Prayer Times were not acceptable per Fatwas by Ulamaa'. Now they allow it.' Yet again, you have displayed your academic dishonesty through manipulation of facts. The actual source says: '100 years ago, in India...'. In addition, what is the reference for this and what is the context of such a fatwa?

4. '60 years ago, loud speakers use for Prayers was considered Haraam, per Fatwas by Ulamaa' in Indo-Pak. Now they allow it.' We acknowledge that such fatāwā were issued by the 'Ulamā. However, this was due to the great caution our 'Ulamā exercised in matters of 'Ibādah.

5. '50 years ago, taking picture for ID or passports was considered Haraam, per Fatwas by Ulamaa'. Now they allow it.' You refer to fatāwā, present them!

Further, the author seems to suggest that such matters are only being considered now. This is totally incorrect. It is sad that you try to create an impression of being a genius but your attitude lacks basic academic requirements.

Your question alludes to our ‘Ulamā being backward. You have tried to present five examples to justify this. Whilst one can argue and discuss the reason why ‘Ulamā take so long to issue rulings or to change their opinions on certain matters, let us not be heedless of the enormous service they render to the ummah.

‘Ulamā have dedicated their lives for the sake of preserving the Deen of Allāh. Whilst the rest of the ummah remains engrossed in the acquisition of material values, our ‘Ulamā have sacrificed tooth and nail in order to learn, understand and expound the teachings of Rasullāh Sallallāhu ‘Alayhi Wa Sallam without any financial gain. Their sterling work in such arduous conditions and with no monetary backing is a demonstration of their loyalty to Deen and their selflessness. Their books exhibit the highest level of academic achievements.

Therefore, we advise that you adopt respect and honour for the ‘Ulamā. Their position and status in the ummah is a very elevated one. Rasullāh Sallallāhu ‘Alayhi Wa Sallam said,

“Certainly Ulamā are the heirs (of the legacy) of the Prophets.”

Hence, they are vicegerents of the Ambiyā’ and deserve complete of respect and reverence. Many virtues have been mentioned in the Ahādīth regarding ‘Ulamā. Consider the following narrations:

Rasullāh Sallallāhu ‘Alayhi Wa Sallam said: *“The virtue of an ‘Alim (scholar) over an ‘Ābid (worshipper) is like that of the full moon over*

the rest of the stars.” “Allāh gives the understanding of Deen to whomsoever He loves.”

Rasulullāh Sallallāhu ‘Alayhi Wa Sallam said: *“The superiority of the scholar over the worshiper is like my superiority over the least of you.”*

Then the Messenger of Allah Sallallāhu ‘Alayhi Wa Sallam said: ‘Indeed Allah, His Angels, the inhabitants of the heavens and the earths and even the ant in its hole and the fish supplicate for the forgiveness of the one who teaches the people good.’” “Lo! Indeed the world is cursed. What is in it is cursed, except for the remembrance of Allah, what is linked to that, the scholar and the student.”

Differences amongst academics and the changing of facts, research and rulings with the passage of time is no new issue. This is common in all academic fields. For example, for decades research suggested that there are nine planets in our galaxy. In the early nineties, there was a debate on whether Pluto was a planet or not. It was finally concluded that Pluto is not a planet. A change in research. Are scientists condemned for changing their view? Why single out the academic differences among ‘Ulamā?

Similarly, astronomers hold as many as four different views regarding the origin and formation of the moon. Will it be fair to condemn them for their differences, or will we term the differences as academic honesty? Why can the differences among ‘Ulamā not be termed as academic honesty? Widely conflicting research can be found concerning the harms and benefits of particular food substances and consumables, to such an extent that, scientists have greatly differed on whether meat and vegetables are beneficial or harmful to the body. With skyrocketing medical advancements, state-of-the-art equipment and technology, scientists have yet to find cures to a number of

diseases despite the fact supported by Shari'ah that 'for every disease there is a cure'. The list is endless. Who is responsible for providing answers to such conflicting and inaccurate facts? How can such differences be reconciled and why have scientists taken so long to reach decisions in matters which till now too cannot be relied upon? Why is such criticism directed only to 'Ulamā? Our 'Ulamā have worked with the greatest sincerity throughout the ages and have had no ulterior motives in issuing rulings. Their work has been purely for the sake of Allāh with no monetary recompense for their research. Yet they have been exceptional in their research.

The aspect of why, how and when Fatāwā (decrees/rulings) change is an academic issue that cannot be comprehended by general people. It is not a simple matter of accepting or rejecting new practices and inventions. 'Ulamā need to consider a number of factors and need deep research in order to issue rulings. Furthermore, rulings are issued according to need and necessity and not simply to keep up with the times. The earlier 'Ulamā had laid down principles of jurisprudence in their eras. Till today, these principles are as practical as they were in those days. Every new issue that is to surface in the future can be deduced by our 'Ulamā. As far as the issue of Ijtihād is concerned, 'Ulamā have laid down very strict criteria for Ijtihād. If anybody can meet these criteria, then he may carry out Ijtihād. Ijtihād consists of two basic categories:

- 1) The composition and compilation of juridical principles that will govern the extraction of rulings from the Qur'ān, Hadīth, Qiyās (logical deduction) and Ijmā' (consensus) and the practical application of such principles. Such principles are comprehensive and are never broken. For this, one requires a very high level of juridical skills and expertise.

2) The extraction of rulings on new issues based on the comprehensive principles deduced by the Mujtahideen in the past. This form of Ijtihād is still carried out by ‘Ulamā who specialize in Fiqh.

[HTTP://MOONSIGHTING.COM/FAQ_MS.HTML](http://moonsighting.com/faq_ms.html)

[HTTP://INVENTORS.ABOUT.COM/OD/CSTARTINVENTIONS/A/CLOCK.HTM](http://inventors.about.com/od/cstartinventions/a/clock.htm)

[HTTP://EN.WIKIPEDIA.ORG/WIKI/HISTORY_OF_WATCHES](http://en.wikipedia.org/wiki/History_of_watches)

[HTTP://MOONSIGHTING.COM/FAQ_MS.HTML](http://moonsighting.com/faq_ms.html)

[سنن الترمذي ت شاكر (97/2) [ايچ ايم سعيد] صحيح البخاري (16/1) [قديبي] سنن الترمذي ت شاكر (98/2) [ايچ ايم سعيد]

[سنن الترمذي ت شاكر (58/2) [ايچ ايم سعيد]

[HTTP://WWW.SPACE.COM/16080-SOLAR-SYSTEM-PLANETS.HTML](http://www.space.com/16080-solar-system-planets.html)

[HTTP://WWW.NUTRAINGREDIENTS-USA.COM/SUPPLIERS2/CONSUMERS-CONFUSED-BY-CONFLICTING-SCIENCE](http://www.nutraingredients-usa.com/Suppliers2/Consumers-Confused-by-Conflicting-Science)

[HTTP://ELIOTBURDETT.COM/WHIC-SCIENCE-CAN-YOU-BELIEVE/](http://eliotburdett.com/whic-science-can-you-believe/)

WAQF LAND FOR MASJID

Q: We have an old mosque in our locality and long back that was dismantled and a new mosque was constructed on the piece of land some 400 feet away. A tin shed has been constructed on the piece of land where there was previously mosque, can we give this tin shed on rent to somebody and the income generated from it would be used for maintenance and extension of newly constructed mosque or we have to keep it idle or what type of structure can we construct on that piece of land. Please advise in light of Hadith and Qur`an.

A: At the outset, it was not permissible to dismantle the old mosque and replace it with a new mosque on another piece of land . Once a land has been endowed and classified as a Shar'i masjid, it will remain as such until the day of Qiyāmah . Therefore, it is not permissible to use the old land for any other purpose than of a Masjid . Hence, it is also not permissible to sell it, rent it out or convert it to anything else albeit it may be to utilise the revenue thereof to contribute to the construction or maintenance of the new Masjid . The previous land will remain a Masjid in spite of its structure being dismantled .

It would have been more appropriate to have consulted the Ulama prior to dismantling the old mosque and replacing it with another upon a different land. The old land, along with the new Masjid, should be reused as a Masjid for the purpose of Salah and the community should try their utmost to ensure both Masjids are inhabited.

[KIFAYAT AL-MUFTI, 7: 42, DAR AL-ISHA'AT, KARACHI]

وان المساجد لله

[AL-QURAN, 72:18]

[AL-BAHR AR-RA'IQ SHARH KANZ AD-DAQA'IQ WA MINHAT AL-KHALIQ, 5: 272]

[IMDAD AL-AHKAM, 3: 174, MAKTABAH DAR AL-ULOOM KARACHI]

[KIFAYAT AL-MUFTI, 7: 28, DAR AL-ISHA'AT, KARACHI; IMDAD AL-AHKAM, 3: 170, MAKTABAH DAR AL-ULOOM KARACHI]

قال ابو يوسف: هو مسجد أبداً إلى قيام الساعة لا يعود ميراثاً ولا يجوز نقله ونقل ماله إلى مسجد آخر سواء كانوا يصلون فيه أو لا وهو الفتوى كذا في الحاوي القدسي وفي المجتبى وأكثر المشايخ على قول أبي يوسف ورجح في فتح القدير قول أبي يوسف بأنه الأوجه

[AL-BAHR AR-RA'IQ SHARH KANZ AD-DAQA'IQ WA MINHAT AL-KHALIQ, 5: 272]

ولو خرب ما حوله واستغنى عنه يبقى مسجداً عند الإمام والثاني أبداً إلى قيام الساعة وبه يفتي حوايى القدسي) ... قوله : (ولو خرب ما حوله) أي ولو مع بقاءه عامراً وكذا لو خرب وليس له ما يعمر به وقد استغنى الناس عنه لبناء مسجد آخر (قوله : عند الإمام والثاني) فلا يعود ميراثاً ولا يجوز نقله ونقل ماله إلى مسجد آخر ، سواء كانوا يصلون فيه أو لا وهو الفتوى حوايى القدسي ، وأكثر المشايخ عليه مجتبى وهو الأوجه

[RAD AL-MUHTAR ALA AD-DURR AL-MUKHTAR, 4: 358, H.M.SAEED COMPANY]

[AL-BAHR AR-RA'IQ, 5: 421, MAKTABAH RASHIDIYYAH; AL-FATAWA AL-HINDIYYAH, 2: 458, MAKTABAH RASHIDIYYAH]

[FATAWA MAHMUDIYYAH, 14: 615, DAR AL-IFTAA JAMIAH FARUQIYYAH, KARACHI]

ACCOUNTING PROFESSION

Q: This is very important to me as this involves making a big decision in my life and is related to making daily earnings.

Although I am working I have also a small CPA (tax & accounting) firm which I run on the side. When I prepare tax returns or perform accounting work I run into situations which cause ethical dilemma. One is to go exactly by the book, the IRS tax guidelines, and the other is to be a little flexible. The normal practice in business and tax preparation is that taxpayers/businesses can take their expenses to reduce their income which results in a lower tax, or higher refund.

Sometimes taxpayers/businesses take deductions for expenses which are mixed, business and some may be person. For example, a business owner goes shopping at Walmart and buys products for his business, but he also needs some products for his home, so this person will buy everything from their business card and use the whole amount as business expense. This is common practice I have seen while working with CPAs in US that their clients give them bank statements and generally if most of the stuff looks business they will give full deductions. But if there are obvious or large amounts of personal expenses then they will further inquire and not allow if the case.

Another example would a Doctor has a business setup for his 1099 contract job and he takes deductions for cell phones expenses for whole family under business and monthly car expenses....whereas according to IRS law only portion used for business is allowed. But if this is done for all my Muslim brothers then they are paying more taxes whereas the common practice is that all business owners do

this to some extent and everyone else in US (Americans) are taking these deductions and paying less tax. The difference can sometimes be in thousands of dollars. As you know there is also opinion of the tax payer money not being properly used so it is okay to reduce tax as mentioned above? And some of my clients are religious people who are taking these deductions as well. So is it possible that my halal Rozi is being affected as well as being the cause of others Rozi being compromised?

Due to this dilemma I am facing, and uncertain about, I am therefore planning to discontinue my business and just work. The whole purpose of having my own business was to be able to have more time off for family and dean (e.g. tabligh work). With this business we are busy half of the year and part-time other half of time, and flexibility is there. And able to avoid fitna of work place, which I am currently facing right now.

Currently having to work, I am having to deal with fitna, mixing/ mingling with strange women, tied down during weekdays from fajr to isha/margib, not having much time for family, masjid, and weekends is pretty much catch up time for family chores etc. Before I was keeping my gaze down, but this is not the case at work and I find myself with unlawful thoughts/desires in my mind sometimes. My also have a big family here and community as well but am not able to have any time to be able to build relationships and be able to bring towards dean given that most of my relatives are much away from dean, even though living in a community with masjid and Muslims.

With my own business also downsides are sometimes I see myself thinking about people to offer my services, sometimes this thought is with me unintentionally at Masjid too and in deeni works. Also, some-

times there is no interaction with anyone, isolation. Also, please keep in mind, that I don't may too many clients might be struggle to have enough means....an option would be to find a part-time job with another CPA company or full time and later start my business but then I need to look for job like this rather than what I am doing right now which is completely different field within accounting (working for big company accounting). Please advise whether I should do one or other, and whether one or other is jaiz (halal or not).

Since this involves my sustenance, I do want to completely make sure I am earning 100% halal money and leave the doubtful as well, like may be the case with my business. But then on the other had I think that if there is nothing wrong with it and can do it, I might be able to establish my business in future and be independent and have more time for my deen and family. At this time I am working full time and doing business on side but it is getting to be too much work and taking up my free time so would like to drop one option and stick to what's best for my akhirah. Quick background is my have involved in tabligh, have spend 4 months and spend 3days regularly and local work to some extent. My family is some what religious, but most relatives not so. Some of my cousins are. We have a big relatives family here. Muslim community is strong here, esp. work of tabligh, a lot of old workers here. But they all have conflicting opinions, most on the side of flexibility on taxes. Please advise when possible.

A : You enquire about the halāl aspect of your CPA practice where it is common for people to include personal expenses under business expenses for tax deductions.

Your clients are the ones who provide you with their various statements etc. and your only responsibility is to help with their accountancy work. The onus of providing correct information rests with them, not with you.

As such, your accountancy work is *halāl*, whether as a private business or whether as an employee.

Concerning the aspect of starting a business to come out of the clutches of never ending employment, that in itself is a good intention. However, as you are indicating yourself, it is impractical to overwork yourself for a long period of time. Therefore, resort to making *istikharah* until Allāh opens the doors for you in one way or the other. Just be careful not to overwork yourself and to neglect your family in the process, as becoming financially independent is a big struggle with many hurdles on the way that may come with a price tag on its own. The aspect of casting lustful glances is very easy to resolve. Simply don't look. For this purpose, you may collect *bayaans* from the internet on the topic and listen to them. The problem only comes about when you look intentionally. It is our innate nature to get attracted to the opposite gender and therefore, if nothing were to happen, then in that case a person should be very worried as there must be something terribly wrong with him. May Allāh save us all from this sickness, *Āmīn*.

CASHING OF CHEQUES ON CONDITION OF BUYING GOODS

Q: I run a shop with a partner where our main business is cashing of cheques. People come to us with their wages which have been paid by cheque and due to it taking quite long in a bank decide to cash it in shops such as ours. It is agreed and known by the people that a certain percentage from the amount is to be used to buy goods from the shop. The percentage is negotiated and varies with each person. Once this has been done the customer takes the cash and may come later to collect the goods he has bought.

Please also note that the shops capital does not usually exceed K100,000. This means that sometimes if a sum of money is very large the shop is unable to cash it due to lack of funds. So I decided to on my own cash the cheque by myself with my own money. The problem arises that I am unable to sell goods to the customer since I am now not actually working as the shop. So can I just tell the person that for the percentage of the cheque, instead of selling goods as the normal case, I will sell you this pen for that percentage? Is doing this allowed?

A : In principle, the bearer of the cheque, whether cash or post-dated is a creditor. The issuer of the cheque is a debtor who has transferred his debt to the bank in the form of a cheque. A transferal of a debt is termed as hawala and is permissible with the consent of all the parties involved. In the enquired situation, employees receive pay cheques from their employers. Accordingly, the employer is a debtor and the employees are creditors. The employer has transferred the debt to the bank with the consent and agreement of the employees. If the employees wish to cash the cheque by private persons besides the bank, this will be another transferal of the debt.

In a transferal of a debt the exact amount oweable has to be transferred. It is not permissible for the cashier of the cheque to derive any benefit from the cashing of the cheques whether by paying a lesser amount to the bearer in which case the cashier will benefit from the surplus amount. For example the cheque is k1000 and it is cashed for k950. The cashier will benefit k50 when cashing the cheque. This is not permissible as it is deriving benefit from a loan which is interest and is prohibited. Similarly, it is not permissible for a cashier of the cheque to put a condition on the bearer of the cheque to purchase items at his store as cashing the cheque is a loan and putting a condition on the bearer to purchase from his shop is deriving benefit

from the loan. Accordingly, the issue of the pen as a strategy will also not be permissible because the cashier accepts to cash the cheque on condition that bearer buys the pen for him for a certain amount. If he cashes it directly or through the pen strategy, both will be conditions on the loan. However, if the bearers (employees) purchase items on their own, without any obligations on them then this will be permissible.

المحيط البرهاني قال محمد رحمه الله في كتاب الصرف: إن أبا حنيفة كان يكره كل قرض جر منفعة قال الكرخي: هذا إذا كانت المنفعة مشروطة في العقد بأن أقرض عادلية صحاحاً أو ما أشبه ذلك، فإن لم تكن المنفعة مشروطة في العقد، فأعطاه المستقرض أجود مما عليه، فلا بأس به، وكذلك إذا أقرض الرجل رجلاً دراهم أو دنانير ليشتري المستقرض متاعاً بثمن غال فهو مكروه، وإن لم يكن شراء المتاع مشروطاً في القرض، ولكن المستقرض اشترى من المقرض بعد القرض متاعاً بثمن غال فعلى قول الكرخي: لا بأس به. وذكر الخفاف في «كتابه» وقال: ما أحب له ذلك، وذكر شمس الأئمة الحلواني أنه حرام: لأن هذا قرض جر منفعة؛ لأنه يقول: لو لم أشتريه منه طالبني بالقرض في الحال.

وذكر محمد رحمه الله في كتاب الصرف: أن السلف كانوا يكرهون ذلك، إلا أن الخفاف لم يذكر الكراهة إنما قال: لا أحب له ذلك، فهو قريب من الكراهة لكنه دون الكراهة، ومحمد لم ير بذلك بأساً، فإنه قال في كتاب الصرف: المستقرض إذا أهدى للمقرض شيئاً لا بأس به من غير فصل، فإنه دليل على أنه رفض قول السلف. قال شيخ الإسلام خواهرزاده رحمه الله: ما نقل عن السلف محمول على ما إذا كانت المنفعة وهي شراء المتاع بثمن غال مشروطة في الاستقراض، وذلك مكروه بلا خلاف، وما ذكر محمد رحمه الله محمول على ما إذا لم تكن المنفعة والهبة مشروطة في القرض وذلك لا يكرهه بلا خلاف، هذا إذا تقدم الإقراض في البيع. كذا في الفتاوى التاترخانية والافتاوى الهندية المرجع السابق.

EMPLOYEE LIABLE FOR COMPANY LOSS?

Q: I work for a travel agency whereby we issue tickets for independent agents. One of the agents committed fraud by providing us with fake authorisation codes to process transactions on her credit card. Although company policy is that we don't accept authorisations from agents, I processed the transactions as I was under pressure and thought the agent was trustworthy. Subsequently I found out that 3 of my colleagues also made the same mistake independently. This is as a result of time constraints and extreme pressure under which we work.

A few months later the airline billed our company for the very same transactions because the bank would not honour the same authorization codes.

The company is apparently trying to recover the money from the agent. They have an agreement with the company to pay a certain amount each month; The Company is not keeping us informed about payments made or any matter regarding the situation. In the meantime the company is holding us individuals responsible even though we made a mistake. We are not sure whether the company is doing everything in its power, legally or otherwise to recover the funds.

I am currently being held liable for R70 000. Even though legally the company has no grounds against me as there is no clause in my contract about this, what would be the Islamic ruling in a case like this? Whether I continued to work there or resign?

A : If an individual enters into employment with a company, according to Shariah, he is considered as an Ajeer-e-khaas (absolute employee) . If an employee makes a mistake because of which the company suffers a loss, the employee will not be held liable for the loss suffered by the company, on condition that it was not due to negligence of the employee . However, if a mistake was made by an employee due to negligence, then he will be held liable for the loss his company has incurred because of his mistake.

In the circumstance you have stated, it is clear that the company has incurred a loss due to your negligence. The company policy is that it does not accept authorisations from agents, in spite of knowing this you violated it by trusting an agent.

The reason you have stated that the mistake was made due to stressful working conditions is not a valid excuse.

According to Shariah you and your friend will be held liable for the loss incurred by the company. Therefore, even if you decide to resign according to Shariah the debt still is upon you, despite there being no legal grounds. The company has the right to cover the loss from your salary in the event of your resignation, the excess of the debt will still be upon you. You may then claim the money from the defrauding agent. If the company received payments from the defrauding agent, you have a right to the details of such payments.

وأجير الرجل وحده يكون الرجل فيستأجر الرجل يخدمه شهرا أو... يستأجر فيه شهرا أو سنة مما لا يستطيع أن يؤاجر نفسه من غيره [الأصل ج 3 ص 561 دار ابن حزم] تكملة البحر الرائق ج 8 ص 29 إيج إيم سعيد

إن كان أجير القصار هو الذي فعل ذلك غير متعمد له فالضمان على القصار ، ولا ضمان على الأجير لأن الأجير أجير خاص... ولا يضمن فيما أوتي علي يديه من [ذاك]. [الأصل ج 3 ص 561 دار ابن حزم]

[والأجير الخاص لا ضمان عليه في قولهم جميعا] شرح مختصر الطحاوي ج 3 ص 399 دار البشائر الإسلامية

فيصير الشيء في يده كالوديعة. (ولا يضمن ما جنت يده ، ما لم يخالف) [شرح مختصر الطحاوي ج 3 ص 399 دار البشائر الإسلامية] ولا يضمن ما تلف في يده أو بعمله (أما الأول ؛ فلأن العين أمانة في يده [تكملة البحر الرائق ج 8 ص 30 إيج إيم سعيد] من حكم الأجر الخاص، أن ما هلك على يده من غير صنعه فلا ضمان عليه بالإجماع، وكذلك ما هلك من عمله المأذون فيه فلا ضمان عليه بالإجماع... فهو ضامن عند علمائنا رحمهم الله؛ لأن الهلاك حصل من [عمل غير مأذون فيه [المحيط البرهاني ج 12 ص 39 إدارة القرآن]

IS IT PERMISSIBLE TO OBTAIN A CREDIT CARD?

Q: A friend of mine told me it is wrong to possess a Credit Card. When I pointed out that there is nothing wrong as long as I don't pay interest, he put forward the following argument: At the time of signing the contract with Credit Card company, one is required to give an undertaking that if he is unable to pay at the specified time, then he would pay interest on the amount due.

That is, one is committing to interest since one doesn't know wha-

situation he would be in, in future, which Allah (SWT) alone knows, or since the person has the intention to pay interest on failure to pay back. Also there is a Hadith which says that deeds depend upon intentions. Therefore if one has intentions of paying interest on failure, one might actually pay in future. My question is it a sin to have a credit card?

A : The contention of your friend is principally correct. It is prohibited to enter into an interest bearing loan even though one will endeavor to avoid paying interest. In an avoidable situation, one should avoid obtaining a credit card.

In an unavoidable situation, if one obtains a credit card, then from a juridical point of view, it is a loan with a condition to pay interest. Accordingly, the condition will fall off and the loan will be regarded as interest free.

We do understand that if the credit card holder did not make timeous payment, the creditor still has a legal right to claim interest from him and the Shar'i implication of the condition falling off will have no effect.

It is important to note the fiqhi rulings set out by the Fuqaha have two dimensions; one is of a judicial nature while the other is non judicious and is an issue of personal consciousness.

If one is pressed by need to take out a credit card and there is no alternative and doing without a credit card would put a person in difficulty, then there is a leeway for him to make use of the credit card facility and make timeous payments. This relaxation is based on the fiqhi maxim:

Needs or necessities permit prohibition.

However, this is not a general ruling and many avenues are taken into consideration before acting upon such a maxim.

To illustrate this with an example and close analogy, it is a norm to pay the electricity and water bills to the municipality that bills its clients with an interest clause in it. It is difficult to arrange our individual and personal light and water sources. It would be impractical to advise people to use lanterns, dig boreholes, or bring water from the rivers to their houses.

In such a situation, the practical difficulties are considered to grant relaxation to merely enter into a contract with an impermissible clause but with the intention not to practice on the clause and maintain the contract according to Shari'ah. In this day and age, the use of credit card has become so common that at times, not having a credit card becomes very challenging, especially when dealing in a conventional and corporate world. In many instances, a deal or payment cannot be done except through a credit card. While we acknowledge that the ideal situation is to avoid using a credit card, Shariah also takes into consideration practical realities and difficulties. It is also advisable that since the condition in a contract is a violation of a Shar'i right, if one takes out the credit card contract due to need and necessity, he should also make tawbah and istighfaar.

Most importantly, a person must take it upon himself to act upon the following when obtaining a credit card:

- Try to obtain the credit card based on need and necessity.
- The user of the credit card must have a firm intention and must endeavor all efforts in paying the bills within the stipulated time without fail.
- To remove any possibility of a default payment in which case interest is charged, it is recommended to set up an online payment

scheme which will directly debit all purchases and payments to his account. Precaution must be exercised to ensure there is sufficient cash in the account to pay the total monthly amount before it is due. One may also use the benefits provided by the credit card company on condition that the benefits do not consist of anything Haram and the benefits are not stipulated as interest. This will be regarded as a gift from the credit card company.

قَوْلُهُ (وَمَا لَا يَبْطُلُ بِالشَّرْطِ الْفَاسِدُ الْقَرْضُ) بِأَنْ قَالَ أَقْرَضْتُكَ هَذِهِ الْبَائِنَةَ بِشَرْطِ أَنْ تَخْدُمَنِي شَهْرًا مَثَلًا فَإِنَّهُ لَا يَبْطُلُ بِهَذَا الشَّرْطِ وَذَلِكَ؛ لِأَنَّ الشَّرْطَ الْفَاسِدَ مِنْ بَابِ الرِّبَا وَأَنَّهُ يَخْتَصُّ بِالمُبَادَلَةِ الْمَالِيَةِ وَهَذِهِ الْعُقُودُ كُلُّهَا لَيْسَتْ بِمُعَاوَضَةٍ مَالِيَةٍ فَلَا تُؤْثِرُ فِيهَا الشَّرْطُ الْفَاسِدُ ذَكَرَهُ الْعَيْنِيُّ... وَفِي التَّبَارُكِ وَتَعْلِيلُ الْقَرْضِ حَرَامٌ وَالشَّرْطُ لَا يُلْزِمُ الْبَحْرَ الرَّائِقَ شَرَحَ كَنْزُ الدَّقَائِقِ، كِتَابُ الْبُيُوعِ، بَابُ السَّلَمِ فَأَمَّا ضَمَانُ الْقَرْضِ فَإِنَّهُ يَنْبَغُ بِالْقَبْضِ شَرْعًا وَلَا أَثَرَ لِلشَّرْطِ فِيهِ الْمَبْسُوطُ لِلسَّرْحِيِّ، كِتَابُ الْكِفَالَةِ، بَابُ مِنَ الْكِفَالَةِ، ج 20، ص 612، دَارُ الْمَعْرِفَةِ أَقْوَلُهُ وَمَا يَصِحُّ وَلَا يَبْطُلُ بِالشَّرْطِ الْفَاسِدِ (شُرُوعٌ فِي الْقَاعِدَةِ الثَّالِثَةِ الْمُقَابِلَةِ لِلأَوَّلَى وَالْأَصْلُ فِيهَا مَا ذَكَرَهُ فِي الْبَحْرِ عَنْ الْأُصُولِيِّينَ فِي كِتَابِ الْأُصُولِ فِي بَعْثِ الْهَزْلِ مِنْ قِسْمِ الْعَوَارِضِ أَنَّ مَا يَصِحُّ مَعَ الْهَزْلِ لَا يَبْطُلُ الشَّرْطُ الْفَاسِدُ، وَمَا لَا يَصِحُّ مَعَ الْهَزْلِ يَبْطُلُ الشَّرْطُ الْفَاسِدُ أَهـ وَالْمُرَادُ يَقُولُ الشَّارِحُ مَا يَصِحُّ أَيُّ فِي نَفْسِهِ وَيُلْغُو الشَّرْطُ، وَإِنَّمَا زَادَهُ لِيَكُونَ نَفْيُ الْبُطْلَانِ لَا يَسْتَلْزِمُ الصَّحَّةَ لِصِدْقِهِ عَلَى الْفَسَادِ فَافْهَمُ (قَوْلُهُ لِعَدَمِ الْمُعَاوَضَةِ الْمَالِيَةِ) أَشَارَ إِلَى مَا قَدَّمَهُ فِي الْأَصْلِ الْأَوَّلِ مِنْ أَنَّ مَا لَيْسَ بِمُبَادَلَةٍ مَالٍ مِمَّا لَا يَفْسُدُ الشَّرْطُ الْفَاسِدُ أَيُّ مَا لَا يَقْتَضِيهِ الْعَقْدُ وَلَا يَلْأَمُهُ، وَذَلِكَ فَضَّلَ خَالَ عَنِ الْعَوَضِ فَيَكُونُ رَبًّا وَالرَّبًّا لَا يَكُونُ فِي الْمُعَاوَضَاتِ [الْعَبْرُ الْمَالِيَّةُ وَلَا فِي الشَّرْعَاتِ رَدَ الْمُحْتَارِ، كِتَابُ الْبُيُوعِ، بَابُ السَّلَمِ وَمُتَفَرِّقَاتِهِ، ج 5، ص 249، سَعِيدُ الْأَشْبَاهِ وَالنَّظَائِرِ

[HTTP://WWW.ASKIMAM.ORG/PUBLIC/QUESTION_DETAIL/25479](http://WWW.ASKIMAM.ORG/PUBLIC/QUESTION_DETAIL/25479)

[فتاوى دار العلوم ذكيا، كتاب البيوع، أبواب الربا، ج 5، ص 387، (نمزم پبلشرز]

[اسلام اور جدید معاشی مسائل، کریڈٹ کارڈ، ج 4، ص 151، ادارہ اسلامیا]

[CONTEMPORARY FATAWAA BY MUFTI TAQI, P. 176/245, IDARA E ISLAMIT]

وَفِي الْخُلَاصَةِ الْقَرْضُ بِالشَّرْطِ حَرَامٌ وَالشَّرْطُ لَغَوٌ

(الدر المختار وحاشية ابن عابدين (رد المحتار)، ج 5 ص 166، دار الفکر)

قَوْلُهُ (وَمَا لَا يَبْطُلُ بِالشَّرْطِ الْفَاسِدُ الْقَرْضُ) بِأَنْ قَالَ أَقْرَضْتُكَ هَذِهِ الْبَائِنَةَ بِشَرْطِ أَنْ تَخْدُمَنِي شَهْرًا مَثَلًا فَإِنَّهُ لَا يَبْطُلُ بِهَذَا الشَّرْطِ وَذَلِكَ؛ لِأَنَّ الشَّرْطَ الْفَاسِدَ مِنْ بَابِ الرِّبَا وَأَنَّهُ يَخْتَصُّ بِالمُبَادَلَةِ الْمَالِيَةِ وَهَذِهِ الْعُقُودُ كُلُّهَا لَيْسَتْ بِمُعَاوَضَةٍ مَالِيَةٍ فَلَا تُؤْثِرُ فِيهَا الشَّرْطُ الْفَاسِدُ ذَكَرَهُ الْعَيْنِيُّ فَيُقَالُ لَهُ فَكَيْفَ يَبْطُلُ عَزْلٌ وَالِاعْتِكَافُ وَالرَّجْعَةُ بِالشَّرْطِ الْفَاسِدِ مَعَ أَنَّهَا لَمْ تَكُنْ مِنَ الْمُبَادَلَةِ الْمَالِيَةِ وَفِي التَّبَارُكِ وَتَعْلِيلُ الْقَرْضِ حَرَامٌ وَالشَّرْطُ لَا يُلْزِمُ الْبَحْرَ الرَّائِقَ شَرَحَ كَنْزُ الدَّقَائِقِ، ج 203، دَارُ الْكِتَابِ الْإِسْلَامِيِّ وَيَبْطُلُ بِالشَّرْطِ الْفَاسِدِ ثَلَاثَةُ عَشَرَ النَّبِيْعِ وَالْقِسْمَةُ وَالْإِجَارَةُ وَمَا لَا يَبْطُلُ بِالشَّرْطِ الْفَاسِدِ سِتَّةٌ وَعِشْرُونَ الطَّلَاقُ (وَالْخُلْعُ مِمَّا لَا يَبْقَى مَالٌ وَالرَّهْنُ وَالْقَرْضُ الْفَتَاوَى الْهِنْدِيَّةُ، ج 4 ص 396، دَارُ الْفِكْرِ

المَسْأَلَةُ السَّابِعَةُ - لَا يَبْطُلُ الْقَرْضُ بِالشَّرْطِ الْفَاسِدِ وَيَكُونُ الشَّرْطُ الْمَذْكُورُ لَغَوًا فَلِذَلِكَ لَوْ اسْتَقْرَضَ أَحَدٌ سَكَّةَ مَغْشُوشَةٍ عَلَى أَنْ يُؤَدِّيَ بِدَلْهَا سَكَّةً خَالِصَةً (دَررُ الْحَكَامِ شَرَحَ مَجْلَةَ الْحَكَامِ، ج 3 ص 84، دَارُ الْكُتُبِ الْعِلْمِيَّةِ

(PG.178, IDARAH ISLAMIYYAT))

فالجائزة التي يقدمها مصدر البطاقة الي حاملها هي جائزة من قبل المقرض الي المستقرض، فهو تبرع محض، لا قمار فيه ولا ربا.....فلو اعطي مقرض شيئاً (للمستقرض، علاوة علي القرض، فانه تبرع محض لا يلزم منه الربا. بحث في قضايا فقهية معاصرة، ج2 ص243، مكتبة دار العلوم كراتشي

QUESTIONS REGARDING DEPOSIT

Q: Regarding deposit (that is kept safe) -

- a. Can we invest in a shariah investment
- b. What happen to profits on loss of the investment
- c. Does the profit
 1. Given to the tenant or
 2. Can we add it to the dep to keep up with yearly income?

A: 1) It is permissible to invest your money in a Shari'ah Compliant investment scheme. Seek advice from your local esteemed 'Ulamaa' on which schemes are Shari'ah Compliant.

2) An individual's loss in an investment will depend on what type of scheme the investment is based on. The investment can be based on either:

- a) Mushaarakah: in this case, one's loss will be proportionate to the ratio of his investment.
- b) Mudaarabah: in this case, there are two possibilities:

A) If one is the financier, he will bear all the loss. If there are multiple financiers, they will all bear the loss in proportion to the ratio of their investments.

B) If one did not invest any money but does the labour, he will not bear any loss. His loss will be the loss of his labour.

IS IT PERMISSIBLE TO SELL DOLLS?

Q: Is a Muslim allowed to sell puppets dolls stuffed toys, objects with these features e.g. toy car with eyes on, but don't play with them themselves, is their earning Halal or Haram?

A: Making dolls or toys having facial features is prohibited in Sharīah. Consider the following narrations:

عَنْ سَعِيدِ بْنِ أَبِي الْحَسَنِ، قَالَ: كُنْتُ عِنْدَ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا، إِذْ آتَاهُ رَجُلٌ فَقَالَ: يَا أَبَا عَبَّاسٍ، إِنِّي إِنْسَانٌ إِثْمًا مَعِيشَتِي مِنْ صَنْعَةِ يَدَيَّ، وَإِنِّي أَصْنَعُ هَذِهِ التَّصَاوِيرَ، فَقَالَ ابْنُ عَبَّاسٍ: لَا أَحَدُّثُكَ إِلَّا مَا سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: سَمِعْتُهُ يَقُولُ: «مَنْ صَوَّرَ صُورَةً، فَإِنَّ اللَّهَ مُعَذِّبُهُ حَتَّى يَنْفُخَ فِيهَا الرُّوحَ، وَلَيْسَ يَنْفُخُ فِيهَا أَبَدًا» فَرَبَا الرَّجُلُ رُبُوءَ شَدِيدَةٍ، وَاصْفَرَّ وَجْهُهُ، فَقَالَ: وَيْحَكَ، إِنَّ أَبَيْتَ إِلَّا أَنْ تَصْنَعَ، فَعَلَيْكَ بِهَذَا الشَّجَرِ، كُلُّ شَيْءٍ لَيْسَ فِيهِ رُوحٌ (صحيح البخاري، بابُ بَيْعِ التَّصَاوِيرِ الَّتِي لَيْسَ فِيهَا رُوحٌ وَمَا يُكْرَهُ مِنْ ذَلِكَ)

Saeed bin Abī al-Hasan narrates, “I was with Ibn Abās Radhiyallāhu Anhumā when a man approached him and said, “O Ibn Abās, I earn my living through my own hands by manufacturing these pictures.” Ibn Abās Radhiyallāhu Anhumā replied, “I will only tell you what I heard Rasūlullāh Sallallāhu Alaihi Wa Sallam saying.

Rasūlullāh Sallallāhu Alaihi Wa Sallam said, “The one who makes a picture, Allāh will punish him so long as he does not blow a soul in the picture he created. And the fact is that he will never be able to blow a soul into it.” The man was terrified and his face turned pale. Ibn Abās Radhiyallāhu Anhu told him, “If you have to manufacture pictures, then make trees and things that are lifeless.” (Sahīh al-Bukhārī)

عَبَدَ اللّٰهُ بِنَ مَسْعُودٍ يَقُولُ: قَالَ رَسُولُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ: «أَشَدُّ النَّاسِ عَذَابًا يَوْمَ الْقِيَامَةِ الْمُصَوِّرُونَ»
(صحيح مسلم، بابُ تحريم تصوير صورة الحيوان، وتحريم اتخاذ ما فيه صورة ونحوه، وأن الملائكة لا يدخلون
بَيْتًا فِيهِ صُورَةٌ وَلَا كَلْبٌ

It is reported from Abdullāh bin Masood Radhiyallahu Anht that Rasūlullāh Sallallāhu Alaihi Wa Sallam said, “Those who create pictures will be most severely punished on the Day of Judgment.” (Sahīh Muslim)

Based on the severe warnings regarding pictures, a Muslim should not trade in dolls and toys having facial features. Apart from the provided academic references, find below Fatāwā of four renowned Muftis from our pious elders.

[1] ويدخل فيه فرس أو ثور من خزف لاستيناس الصبي لانه لا قيمة له، ولا يضمن متلفه (سكب الأنهر على هامش مجمع الأنهر، ج 3، ص 87، دار الكتب العلمية)
(اشترى ثورًا أو فرسًا من خزف) لأجل اشتيناس الصبي لا يصح (لا قيمة له) (لا يضمن متلفه وقيل بخلافه) يصح ويضمن فنيته وفي آخر حطير المجتبى عن أبي
يوسف يجوز بيع اللغنية وأن يلعب بها الصبيان (الدر المختار، ج 5، ص 622، سعيد)
إمداد الأحكام، ج 3، ص 873، مكتبة دار العلوم كراتشي
فتاوى محمودية، ج 91، ص 305، فاروقية
محمود الفتاوى، ج 3، ص 91، مكتبة انور
فتاوى حقانية، ج 6، ص 45

AGENCY FEES

Q: A deal would be found either by an online listing or for sale sign. I would compare what the seller of the property is asking for with how much the market value is, which would be estimated using real estate websites. I would then contact the investors informing him about the deal. If there is enough potential profit and the investor finds the deal worth while, I would be paid a finder's fee, e.g. : \$500 or so paid out by check or cash by the investor.

The investor would contact the seller and go through the entire purchase process. Is this permissible? Basically all I would be doing is informing the investor of the deal, so I wouldn't know if the investor is using interest or not for the purchase of the property.

A : According to our understanding of your query, you are an agent of potential investors in purchasing properties. You are offered an agency fee. You find suitable properties and after having conducted a profitability study, you inform the investor who would consider the deal. If the deal was successfully concluded you would receive an agency fee according to your agreement. If our understanding of your query is correct, then it is permissible for an agent to earn agency fees on condition the fee is stipulated by amount or on a sound mechanism in which there is no ambiguity, for example percentage on the purchase price.

The payment for the purchase of the property has no bearing on the permissibility of your agency fees. However if you are aware of a Muslim investor dealing in interest, you should avoid identifying properties for him. Allah Ta'ala says in the Quran: "And do not assist each other in sin and transgression." (Surah Ma'idah, verse 2)

سئل محمد بن سلمة عن اجرة سمسار فقال ارجو انه لا بأس به و إن كان في الأصل فاسداً لكثرة التعامل و كثير من هذا غير جائز فجزوه لحاجة الناس اليه (رد المحتار ج 6 ، ص 36 ، سعيد)

و اذا اخذ السمسار اجر مثله هل يطيب له ذلك قال الشيخ المعروف بخواهرزاده يطيب له ذلك (تاتارخانية، ج 51 ، ص 531 ، زكريا) و اذا باع الدلال ضيعة رجل بامر فاعل صاحب الضيعة بعثها بغير اجر و قال الدلال لا بل بعث باجر فان كان هذا الدلال معروفاً بأنه يبيع أموال الناس باجر فإنه لا يصدق الامر على دعواه ويجب اجر المثل (المحيط ، ج 21 ، ص 811)

Fatawa Mahmoodiyah, vol 25, p 292 (maktaba mahmoodiyah)

Fatawa Raheemiya, vol9\10, p299 (darul ishaat)

Fatawa Mahmoodiyah, vol 24, p428 (maktaba mahmoodiyah)

BONDED PROPERTY FROM COMMERCIAL BANKS?

Q: 1) Are we allowed to have a bonded property from our commercial banks ABSA, FNB, NEDBANK, STANDARD BANK, etc (Kmist) these are riba institutes?

2) If the above banks is based on a system of ribaa, how is it possible to have Islamic banking with them whilst they also are sponsors of activities and projects that are against sharia?

3) Is the income of Muslims halaal working for these institutes?

A: You are correct that conventional banks are Riba institutes and they sponsor un-Islamic projects.
Almighty Allah says,

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ

Help one another in Al-Birr and At-Taqwa , righteousness and piety); and do not help one another in sin and transgression.(AL-MA'IDAH AYAH 2)

Therefore, in principle it would not be correct for a Muslim to deal with a conventional bank. However, Islam is a practical religion and takes into consideration needs and circumstances.

In present day dealings, it is very difficult to stay away from using the facilities of a conventional bank. It is due to the need and circumstances the Ulama have granted a leeway for Muslims to use the facilities of a conventional bank.

This is based on the following maxim,

الضرورات تبيح المحظورات.

Necessities permit the prohibited.

It should be understood that the leeway is confined to need. Accordingly, it will not be permissible for a person to go beyond the need and engage in bonds and interest bearing loans.

The ideal situation for Muslims is to establish an independent Islamic bank that functions completely according to Shari'ah principles of financing. In the absence of the ideal situation, Muslims are constrained to use conventional banks to fulfil their needs of Halal investments through a window in conventional banks. In such a situation, that facility must be completely independent to ensure the profits and dividends are Halal and Shari'ah compliant. There are Ulama and experts who have the skills and expertise to devise and supervise such products to fulfil the Halal investment needs of Muslims.

It is also important to point out that it is best for Muslims to search for Halal investment schemes out of the conventional banks.

CAN INTEREST BE AVOIDED IN TODAY'S WORLD?

Q: It is said that "Interest" cannot be avoided in today's world. Is this true?

A: Ribā, or interest, is strongly prohibited in Islam. Consider the following verses and ahādīth:

Allah Ta'ālā says:

وأحل الله البيع وحرم الربا

“Allah has permitted sale and prohibited ribā (interest/usury).”
(Qur'an, 2:275)

Allah Ta'ālā also says:

يا أيها الذين آمنوا اتقوا الله وذروا ما بقي من الربا إن كنتم مؤمنين، فإن لم تفعلوا فأذنوا بحرب من الله
ورسوله

“O you who believe, fear Allah and leave out the remains of ribā, if you are (true) believers. If you do not do so, then let it be an announcement of war with Allah and His Messenger.” (Qur'an, 2:278-9)

Allah Ta'ālā further says:

يا أيها الذين آمنوا لا تأكلوا الربا أضعافا مضاعفة

“O you who believe, do not consume ribā, doubled and multiplied.”
(Qur'an, 3:130)

The hadiths of Rasūlullāh (sallallāhu 'alayhi wasallam) are equally strict on the prohibition of all forms of ribā. Rasūlullāh (sallallāhu 'alayhi wasallam) cursed the one who receives interest and the one who gives it. (Sahīh Muslim; Mishkāṭ al-Masabīh, 2807)

Rasūlullāh (sallallāhu 'alayhi wasallam) said:

درهم ربا يأكله الرجل وهو يعلم أشد من ستة وثلاثين زنية

“One dirham of ribā a man consumes knowingly is worse than thirty three acts of illicit intercourse.” (Musnad Ahmad; Mishkāṭ al-

Masabih, 2825)

There are many reasons for the strict stance Islam has taken against usury. In an economy infested with usury, we are in a better position to understand the strict stance of Islam. Interest favours the rich and impoverishes the poor. The major imbalance in the distribution of wealth in today's world is a direct consequence of the capitalist economy, which is based on usury.

Hence, interest is a great source of injustice and oppression, referred to as such in the Qur'an (2:179). As Muslims, therefore, we must make all effort to avoid interest.

Since Allah Ta'ālā has ordained that interest is harām, it entails that interest is avoidable. Allah Ta'ālā would not ask us to do something impossible. The Qur'an says:

لا يكلف الله نفسا إلا وسعها

“Allah does not task a soul beyond its capacity.” (2:286)

We understand that the world today is infested with interest. In fact, this situation was prophesied in a hadith reported from RasūlAllāh (sallAllāhu ‘alayhi wasallam):

ليأتين على الناس زمان لا يبقى أحد إلا أكل الربا فإن لم يأكله أصابه من بخاره

“A time will come on the people when none will remain but he consumes interest, and if he does not consume it, its vapours will reach him.” (Ahmad, Abū Dāwūd, an-Nasā'ī, Ibn Mājah; Mishkāt al-Masābih, 2818)

Indeed, it is a great challenge in today's time to stay clear of interest. Allah Ta'ālā says:

أَحْسِبَ النَّاسُ أَنْ يُتْرَكُوا أَنْ يَقُولُوا آمَنَّا وَهُمْ لَا يُفْتَنُونَ

“Do people think that they will be left alone only on their saying, ‘We believe,’ and will not be put to any test?” (29:3)

The test of *īmān* is to face the challenges that Allah Ta‘ālā has set for us.

Although interest is prevalent and the economy is infested with interest, as Muslims we must ensure that all our dealings are free of usury. In doing so, we must trust in Allah, and have faith that He will take care of our provisions. Allah Ta‘ālā says:

وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مَخْرَجًا، وَيَرْزُقْهُ مِنْ حَيْثُ لَا يَحْتَسِبُ، وَمَنْ يَتَوَكَّلْ عَلَى اللَّهِ فَهُوَ حَسْبُهُ

“Whosoever fears Allah (by observing His commandments), He will make a way out for him. And he will provide him from where he did not imagine. And whosoever puts his trust in Allah, then He will suffice him.” (65:3)

If the whole world practised nudity, should Muslims stoop down to their level and also practice nudity? Rather, Muslims must take all precautions to ensure that this practice is avoided and does not infiltrate their communities.

In the same way, Muslim communities should not succumb to the pressure of accepting the current usurious economy. Instead, they must make their own financial arrangements that are free of interest and anything that does not conform to the Shari‘ah.

CAN WE USE MUSIC TO ATTRACT CUSTOMERS TO OUR SHOP?

Q: Can we use music to attract customers to our shop?

A: Music is strictly forbidden in Islam.
Rasulullah (Sallallahu `Alayhi Wasallam) said:

إن الله حرم علي، أو حرم الخمر، والميسر، والكوبة
“Verily, Allah has made haraam liquor, gambling, and the musical drum.

Rasulullah (Sallallahu `Alayhi Wasallam) also said:

ليكونن من أمتي أقوام، يستحلون الحر والحرير، والخمر والمعازف

Rasulullah (Sallallahu `Alayhi Wasallam) also mentions: “Most certainly, there will be in my Ummah people who will make lawful fornication, silk, liquor and musical instruments.”

Rasulullah (Sallallahu `Alayhi Wasallam) also mentions:

الْكُوبَةُ حَرَامٌ، والدن حرامٌ، والمعازِفُ حرامٌ، والمزَامِيرُ حرامٌ

The musical drum is haraam. Liquor is haraam, and musical instruments are haraam.

Rasulullah (Sallallahu `Alayhi Wasallam) also states:

استماع الملاهي معصية والجلوس عليها فسق والتلذذ بها كفر

“Listening to musical instruments (malaahae) is a major sin; and gathering and sitting together for that purpose is transgression (fisq); and taking delight and pleasure in them is disbelief (kufr).”

It is clear from the above quoted Ahadith that music is strictly forbidden. A Muslim businessman should not play to music to attract customers. Music incurs the wrath of Allah Ta'ala and deprives one of the barakah and blessings in one's business. In order to attract customers, there are many halal alternatives to achieve that.

ERROR IN INVOICE

Q: Normally prices for products we resell are agreed and signed upon on a yearly basis with suppliers. For example we agree on a price for a product from the supplier and generally fix the price for a period. Sometimes when they invoice us for the product they charge us a lower price than the price agreed upon. Do we accept the lower price and do not tell them about it or do we inform them?

A: In a world of deception and cheating, Alhamdulillah it is encouraging to observe your honesty and trustworthiness. It is this attitude that brings Barakah in one's earnings. It is stated in a hadeeth:

عن أبي سعيد عن النبي صلى الله عليه وسلم قال: التاجر الصدوق الأمين مع النبيين و الصديقين و الشهداء (رواه الترمذي ج-٣ ص-٨٦، الرسالة العالمية)

Abu Sa'id (RA) reports Nabi (SAW) to have said: The honest and trustworthy businessman will be with the Prophets, the Saints and the Martyrs (on the Day of Judgment). (Tirmizi vol.3 pg.68, Al-Risalatul Al-'Alamiyyah)

In principle, if you and the supplier have already agreed upon a price, that price will be binding. It is also a principle that the supplier may give a discount on the agreed price. In the enquired case, it is

possible that the supplier may have given you a discount or may have forgotten the agreement. It is in keeping with honesty that you clarify the situation with the supplier.

و إذا حصل الإيجاب و القبول لزم البيع و لا خيار لواحد منهما إلا من عيب أو عدم رؤية (الهداية ج-٣، ص-٧ إدارة القرآن و العلوم الإسلامية)
هو مبادلة المال بالمال بالتراضي و يلزم بإيجاب و قبول و بتعاط (كنز الدقائق ص-٦٠٤ دار السراج)
و إذا وجد لزم البيع (تنوير الأبصار من الشامي ج-٤، ص-٨٢٥، ح م سعيد)
(فتاوى دار العلوم ديوبند ج-٤١ ص-٤٧٢)
(فتاوى دار العلوم زكريا ج-٥ ص-٢٥)
ولو حط بعض الثمن و المبيع قائم التحق بأصل العقد (الإختيار ج-٢ ص-٧١، الرسالة العالمية)
و يجوز أن يحط عن الثمن (الهداية ج-٣ ص-٣٧١، إدارة القرآن و العلوم الإسلامية)

IS PAPER MONEY ALLOWED IN ISLAM?

Q: I heard a talk by a certain shaykh that said paper money is not allowed in Islam. Is this correct?

A: Broadly speaking, paper money or banknotes went through two stages in their history:

Initially, they were regarded as certificates or receipts, promising to pay the amount of gold represented by them upon demand. In this earlier period, the receipts or promissory notes were backed up by actual gold. Later, they came to be regarded in international trade, and by the common people, as currency or media of exchange (thaman). No longer were they backed up by gold.

We will discuss each of these scenarios in turn, and in doing so, we will briefly discuss the arguments of those who consider it harām to use paper money as a medium of exchange.

Banknotes as Promissory Agreements:

When paper “money” or banknotes were first introduced, they were legal documents that transferred a debt to the original debtor who promised to pay the amount of gold represented by them upon demand. Those who hold the view that it is impermissible to use banknotes as a medium of exchange argue that to trade with these notes equates to the “sale of a debt” (bay‘ ad-dayn) or “sale of a product before receipt of it” (bay‘ qabl al-qabd) which are impermissible in the Shari‘ah. However, this argument is based on a misunderstanding of Islamic laws of commerce. Using these promissory notes as a medium of exchange would not be regarded as the sale of a debt, but the transfer (hawālah) of a debt. In a sale, once the price has been confirmed, and the transaction concluded, the purchaser is not under an obligation to hand over the money immediately. He may transfer the debt (i.e. the price) due on him to one of his own debtors, and in doing so, he will become free of his debt. The note merely certifies this transfer in writing.

Furthermore, the gold that is represented by the note is the thaman or “price” and not the mabī‘ or “subject of trade.” Thaman is not “sold”, but is merely a medium of exchange. Hence, the jurists have made it clear that for the transaction to be valid, it is not a condition for the thaman to even be in existence. Instead, the purchaser may pay with money that comes into his possession later.

Furthermore, when commodities are sold for money, it is only necessary that possession is taken of either the commodity or the money, and it is not necessary to take possession of both at the time of the transaction. In short, when banknotes were regarded as promissory notes or receipts for the payment of gold, it would have been permissible to use them as media of exchange.

Banknotes as Money:

The above discussion relates only to the period when banknotes were regarded as promissory notes for the payment of a specified amount of gold. However, since the nineteenth century, the international community has regarded banknotes as “legal tender.” Creditors were compelled to accept it for the repayment of a debt. Commercial banks were prevented from producing them, and production was limited to the central government banks. Eventually, in the latter half of the twentieth century, gold and silver became totally disregarded in the appraisal of paper money, and banknotes came to be regarded as money equivalent to gold and silver. Today, banknotes do not represent gold or silver but represent the “purchasing power” of that currency. Hence, they are now legally and customarily regarded as money.

Undoubtedly, banknotes were initially treated as certificates of debt, which is why many earlier ‘ulamā’ regarded them as such and did not consider them wealth. However, describing the later context, Geoffrey Growther wrote in his *An Outline of Money*: “The promise to pay which appears on their face now is utterly meaningless...But it is accepted as money throughout the British Isles.” (p. 16)

Based on this, the vast majority of contemporary jurists favour the opinion that paper money is to be regarded as a form of money, and not a promissory note or receipt.

Those who hold that it is impermissible to use paper money as a medium of exchange argue that banknotes have no intrinsic value, and the ‘value’ assigned to them has merely been imposed by the state. In other words, they are ‘fiat currency,’ that is, given the status of ‘money’ by governments while having no intrinsic value themselves. Hence, they argue, since in a valid sale, both of the items that are exchanged must be wealth (māl) and must have intrinsic value, it is not permissible to deal in paper money.

Instead, according to them, we must revert to the use of gold and silver as media of exchange. This argument is also misplaced. In fact, many early jurists have stated explicitly that a form of currency in vogue at their time, referred to as *fulūs* or artificial currency, holds the same status as dirhams. *Fulūs* contained neither gold nor silver, and were thus ‘fiat currency’ in much the same way banknotes are today. Moreover, the jurists have stated that this status of *fulūs* is based on human conventions and the value assigned to them by people. >From amongst the jurists, Imām Mālik too approved of using *fulūs* as mediums of exchange. Moreover, *fulūs* were used in the time of the Sahābah. There are no Shar‘ī justifications for drawing a distinction between *fulūs* and present-day banknotes.

Furthermore, customs and norms (‘urf) play a large role in determining what is and what is not regarded as “wealth” in the Sharī‘ah. Ibn ‘Aibdīn ash-Shāmī said:

“The meaning of ‘wealth’ (*māl*) is that which [human] nature inclines towards, and it is possible to store it for a time of need. The attribute of wealth is established by the people regarding [it] as wealth.” It is also undoubtedly true that in today’s world, fiat currency is accepted by the masses without any coercion or force, and out of free will. Hence, the correct Shar‘ī position is that in today’s time, banknotes are legitimate media of exchange. The view that it is impermissible to use them as a medium of exchange is a minority position which besides being impractical, is not supported by sound arguments from Islamic jurisprudence.

بيع الدين إنما يجوز من المديون (رد المحتار، دار عالم الكتب، ٣٣:٧)

عن أبي هريرة رضي الله عنه أنه قال مروان: أحللت بيع الربا. فقال مروان. ما فعلت! فقال أبو هريرة: أحللت بيع الصكاك (وهي الرقاع مكتوب فيها أعطيات الطعام وغيرها مما تعطيه الأمراء للناس) وقد نهى رسول الله صلى الله عليه وسلم عن بيع الطعام حتى يستوفي (صحيح مسلم، ٧٢٨٣)
إذا أحال المشتري البائع على غريم من غرمائه لم يسقط حق البائع عن المطالبة بالثمن ولكن غير المشتري قام مقام المشتري في حق تحمل هذه المطالبة...ذمة المشتري قد برئت عن الثمن بالحوالة فيعتبر بها لو برئت بالأداء (المحيط البرهاني، إدارة القرآن، ٧٣٢:٩-٨)

ومن أودع رجلا ألف درهم وأحال بها (أي ألف درهم) عليه (أي على المودع) أخر فهو جائز، لأنه أقدر على القضاء فإن هلكت برئ لتقييدها (الحوالة) بها (الوديعة) ...وقد تكون الحوالة مقيدة بالدين أيضا
ع: كما إذا كان لرجل على آخر ألف درهم وللمديون على آخر كذلك وأحال المديون الطالب على مديونه بألف على أن يؤديه من الألف التي للمطلوب عليه (الهداية مع حاشية، إدارة القرآن والعلوم الإسلامية، ٥٢:٥)
الثلث غير مقصود بل وسيلة إلى المقصود (رد المحتار، دار عالم الكتب، ١٠:٧)
اشتراط وجود المبيع دون الثمن (المصدر السابق)

إذا اشترى الرجل متاعا بعينه أو عرضا بعينه أو فاكهة بعينها بفلوس ليس عنده فهو جائز لأن الفلوس بمن (المحيط البرهاني، إدارة القرآن، ٩:١٤٠)
في عقد غير الصرف يكتفي بقبض أحد البديلين (المحيط البرهاني، إدارة القرآن، ٩:٦٣)
إمداد الفتاوى، مكتبة دار العلوم كراچی، ج. ٢، ص. ٤٣

فتاوى محمودية، ٩:٧٨٣ (تعليق)

الفلوس بمن: إن ضاع منها شيء قبل القبض وجب على صاحبه مكانه لأنه من نوعه (الأصل للإمام محمد، دار ابن حزم، ٢:٢١٤)
الفلوس بمن كالدراهم (المبسوط، ٤١:٥٢)
إذا اشترى الرجل متاعا بعينه أو عرضا بعينه أو فاكهة بعينها بفلوس ليس عنده فهو جائز لأن الفلوس بمن كالدراهم والدنانير...إذا اشترى متاعا بعينه بفلوس بعينها فله أن يعطي غيرها مما يروج بين الناس لما ذكرنا أن الفلوس بمن فصار الشراء بالفلوس بمنزلة الشراء بالدراهم...الفلوس إنما صارت بمنّا باصطلاح الناس (المحيط البرهاني، إدارة القرآن، ٩:١٤٠)
قلت: ما قول مالك فيمن أسلف فلوسا في طعام؟ قل: لا بأس بذلك في قول مالك. قلت: فما قول مالك فيمن أسلم طعاما في فلوس؟ قال: قال مالك: لا بأس بذلك. (المدونة الكبرى، دار الكتب العلمية، ٣:٧٠)
يزيد بن أبي حبيب عن مرثد بن عبد الله اليزني قال كان أول أهل مصر يروح إلى المسجد وما رأيته داخل المسجد قط إلا وفي كفه صدقة إما فلوس وإما خبز وإما قمح (صحيح ابن خزيمة، المكتب الإسلامي، ص. ٦٦١)
المراد بالمال ما يعيل إليه الطبع ويمكن ادخاره لوقت الحاجة والمالية تثبت بتمويل الناس كافة أو بعضهم (رد المحتار، دار عالم الكتب، ١٠:٧)

UDHIYYAH – LOCALLY OR ABROAD?

Q: I would like some advice on where to do Udhiyyah. In some countries the same Udhiyyah is for £15 whereas others range from £60 to £200+. Is there any difference in reward or benefit? As many people choose the cheaper options and countries like Palestine/ Chechnya / Iraq etc. are left without Udhiyyah due to the expenses.

A: Your question is directed towards doing Udhiyyah (slaughtering an animal) abroad and the choice of the country based on the variation of the values of the animals. In some countries the animal is cheaper than others. Before responding to your question, we wish to point out the following:

The practice of Udhiyyah is a salient and an outstanding feature of Islam. To honour, respect and cherish the salient features of Allah is an expression of piety of the heart. This Islamic ritual commemorates and represents the great sacrifice of Ibrahim (Peace be upon him) to sacrifice his son, Isma'eel (Peace be upon him), upon the order of Allah.

While Udhiyyah presents an opportunity for the poor and needy to enjoy meat, the very purpose of Udhiyyah is to seek the closeness of Allah through (spilling blood in offering sacrifice). Prophet Muhammad (Peace be upon him) stated: There is nothing dearer to Allah during the days of Udhiyyah than the sacrificing of animals. The sacrificed animal shall come on the Day of Judgement with its horn, hair, and hooves (to be weighed). The sacrifice is accepted by Allah before the blood reaches the ground. Therefore sacrifice with an open and happy heart.

One should not do Udhiyyah to merely execute the obligation of having an animal slaughtered. The slaughtering of an animal is an act of worship itself and thus it is preferable for a person to slaughter the animal himself and endeavour to experience the spirit of Udhiyyah.

Prophet Muhammad (peace be upon him) advised his daughter: "Oh Fatimah, stand up and witness the slaughtering of your animal. All your sins will be forgiven at the fall of the first drop of blood. And verily, the animal shall be brought forward on the Day of Judgement with its meat and blood and shall be increased in weight seventy times, and then placed on the scale of deeds."

Abu Saeed (May Allah be pleased with him) asked, "Oh Messenger of Allah, is this exclusive to the family of Muhammad (Peace be upon him) who have been distinguished with goodness or for Muslims in general?" The Prophet (Peace be upon him) replied, "[This reward is]

for the family of Muhammad and for the general Muslims too. In reference to your question, the Prophetic instruction for a Muslim is to slaughter his Udhiyyah animal personally and not assign for it to be slaughtered at any other place or country. This is based on the following points:

It is preferable and mustahab to slaughter the animal by the individual himself or at least for the person to witness his Udhiyyah animal being slaughtered, as is the instruction of the Prophet (Peace be Upon Him) himself.

As for the consumption of the meat, it is also preferable for the person himself to consume the meat from his Udhiyyah and also feed others from it. The most virtuous mode of distributing the meat is to distribute one third of the Udhiyyah to the poor and needy, one third to his relatives and neighbors, and the remaining third to be kept for the person himself. However, if one's family members are poor and needy, then it is virtuous to distribute all the meat among them. While it is more virtuous for one to slaughter the animal himself and witness the spirit of Udhiyyah, he may have his Udhiyyah animal slaughtered abroad. In doing so, the following points should be considered:

The ideal situation is to sacrifice an animal locally to witness the spirit of Udhiyyah as well as to express sympathy and solidarity with other fellow unfortunate Muslims by having another Udhiyyah done abroad. Do not choose to do Udhiyyah abroad just because it is a cheaper option.

Remember Allah is aware of the intention of our hearts. The reward of Udhiyyah increases for the one who bears the most sacrifice.

Allah proclaims: “You will never achieve birr (ultimate reward) until you spend from that what you love,” and that, “It is neither their meat nor their blood that reaches Allah, but it is piety from you.” Hence if a person sacrifices more money upon purchasing his Udhiyyah animal, he will be rewarded accordingly.

A person conducting the slaughtering of his animal in another country should give preference to a place where the residents are most in need; especially those countries which have been afflicted with poverty or political turmoil, such as Somalia, Mali, Iraq, Syria, Palestine etc..

ذلك ، ومن يعظم شعائر الله فإنها من تقوى القلوب

[Al-Qur'an: 22:32]

فلما أسلما وتله للجبين ، ونادياه ان يا ابراهيم قد صدقت الرؤيا ، انا كذلك نجزي المحسنين ، ان هذا لهو البلاء المحبين ، وقد يناه بذبح عظيم

[Al-Qur'an, 37:103-7]

وفي الأضحية اجتمع المعنيان: لأنها تقرب بإراقة الدم وهو اتلاف ...

[A-Bahr al-Amiq fi Manasik al-Mu'tamir wa al-Haaj, 3:1702, Muassasah ar-Rayan]

أن رسول الله صلى الله عليه وسلم قال ما عمل آدمي من عمل يوم النحر أحب إلى الله من إهراق الدم إنها لتأتي يوم القيامة بقرونها وأشعارها وأظلافها وأن الدم ليقع من الله مكان قبل أن يقع من الأرض فطيبوا بها نفسا

[Tirmidhi, 1493; Ibn Maajah, 3118]

[Al-Fatawa al-Hindiyyah, 5:300]

قال رسول الله عليه وسلم ، يا فاطمة قومي فاشهدي اضحيتك فان لك باول قطرة تنظر من دمها مغفرة كل ذنب أما إنه يجاء بلحمها ودمها توضع في ميزانك سبعين ضعفا قال أبو سعيد يا رسول الله صلى الله عليه وسلم هذا لآل محمد خاصة فإنهم اهل لما خصوا به من الخير أو للمسلمين عامة قال لآل محمد خاصة وللمسلمين عامة

[At-Tarhib wa At-Tarhib, 2/160]

ونذب أن يذبح بيده ان علم ذلك - لأن الأولى في القرب أن يتولاها الانسان بنفسه

[Tabyeen al-Haqa'iq Sharh Kanz ad-Daqa'iq, 6:9, Maktabah Imdadiyah, Multan]

قلت: أرايت الأضحية يذبحها صاحبها أحب إليك أم يأمر غيره؟ قال: يذبحها هو أحب إلي، وإن أمر غيره لم يضره

[Al-Asl li al-Imam Muhammad as-Shaybani, 5:411, Dar Ibn Hazam]

وفي فتاوى أهل سمرقند: الأفضل أن يضحي الرجل بيده، إذا قدر عليه وإن لم يقدر فوض إلى غيره ، حكى أن ابا حنيفة فعل بنفسه

[Al-Muhit al-Burhani, 8:468, Idarah al-Qur'an; Al-Fatawa At-Tatarkhaniyah, 17:435-6, Maktabah

Zakariya, Deoband]

[Al-Fatawa Al-Hindiyyah, 5:300; Bahishti Zewar (Mukammal), p.160, Idarah Isha' at-e-Diniyat; Fatawa Bayyinat, 4:559]

فإذا ذبحها للمسلم بأمره أجزأه ويكره ، والله أعلم

[Al-Jawharat an-Nirah, 2:190]

ولكن ينبغي له أن يشهد بها بنفسه وإن كان لا يحسن ذلك فالأفضل أن يستعين بغيره كيلا يجعلها ميتة

[Ibid]

[At-Targhib wa At-Tarhib, 2/160]

ويستحب للمضحي أن يأكل من أضحيته ، ويطعم منها غيره ... فإن الأفضل له أن يدعه لعياله ، ويوسع به عليهم

[Al-Fatawa at-Tatarkhaniyyah, 17:436-7; Al-Muhit al-Burhani, 8:469]

الأفضل أن يتصدق بثلاث الأضحية ويتخذ التلت ضيافة للأقارب والجيران ويدخر الثلث الباقي

[Al-Fatawa as-Sirajiyyah, p.389, Zamzam & Darul Uloom Zakaria]

وإن كان فقيراً ذاعبال فالأفضل أن يأكله هو وعياله

[Al-Fatawa at-Tatarkhaniyyah, 17:437]

... فإن الأفضل له أن يدعه لعياله ، ويوسع به عليهم

[Al-Fatawa at-Tatarkhaniyyah, 17:436-7; Al-Muhit al-Burhani, 8:469]

والذبح بيده إن أن أحسن وإلا أمر غيره

[Sharh al-Wiqayah ma'a Umdat ar-Ri'ayah, 7:258, Dar al-Kutub al-Ilmiyyah]

انه عليهم بذات الصدور

[5:11, na'ruQ-lA]

قالت عائشة رضي الله عنها: يا رسول الله يصدر الناس بنسكين وأصدر بنسك؟ فقبل لها: انتظري فإذا طهرت فأخرجي إلى التنعيم فأهلي ثم اتينا مكان كذا ولكنها على

قدر نفقتك أو نصيبك

[Saheeh Bukhari, 1695; Saheeh Muslim, 2448]

لن تنال البر حتى تنفقوا مما تحبون

[Al-Qur'an, 3:92]

لن ينال الله لحومها ولا دماءها ولكن يناله التقوى منك

[Al-Qur'an, 22:37]

البقرة أفضل من الشاة في الأضحية إذا استوتا في القيمة لأنها أعظم وأكثر، والشاة أفضل من سبع البقرة إذا استوتا في القيمة واللحم لأن لحم الشاة أفضل من سبع

البقرة وإذا كان سبع البقرة أكثر لحماً فسبع البقرة أفضل والأصل في هذا أنهما إذا استوتا في القيمة واللحم فأطيهما لحماً أفضل وإذا اختلفا في القيمة واللحم فالفاضل

أولى

[Al-Muhit Al-Burhani, 8:468]

فمن يعمل مثقال ذرة خيراً يره

[Al-Qur'an, 99:7]

مثل الذين ينفقون أموالهم في سبيل الله كمثل حبة انبتت سبع سنابل في كل سنبلة مائة حبة ، والله يضاعف لمن يشاء، والله واسع عليم

[Al-Qur'an, 2:261]

وأطعموا القانع والمعتر

[Al-Qur'an, 22:36]

قال النبي صلى الله عليه وسلم: من ذبح قبل الصلوة فليعد. فقام رجل فقال: هذا يوم يشتى فيه اللحم وذكر من جرائره فكأن النبي صلى الله عليه صدقه، قال:

وعندي جذعة أحب إلي من شاتي لحم فرخص له النبي صلى الله عليه وسلم فلا أدري: أبلغت الرخصة من سواه أم لا

[Saheeh al-Bukhari, 911]

HELPING A DRUNKARD?

Q: I saw a drunkard falling into a drainage pit and i did not help out as i thought i should not help him because of his sin. Did i do the right thing?

A: Rasulullah Sallallahu Aaihi Wa Sallam said:
الرَّاحِمُونَ يَرْحَمُهُمُ الرَّحْمَنُ ارْحَمُوا أَهْلَ الْأَرْضِ يَرْحَمَكُم مَّن فِي السَّمَاءِ

“Allah, the most Merciful has mercy upon the merciful. Have mercy on those on earth, the being in the sky (Allah) will have mercy on you.”

A drunk person is a creation of Allah. He has erred by drinking intoxicants. While we abhor that evil habit, we do not abhor the drunk person as a human being. He deserves our sympathy and assistance. If he fell in the drainage pit, he should be assisted and taken out. If he has hurt himself express sympathy to him with kind and loving words and offer him medical assistance.

If one shows mercy to any creation of Allah, Allah will shower His mercy upon the merciful. Rasullullah Sallallahu Alaihi Wa Sallam told us of how an immoral woman was forgiven for showing mercy to a thirsty dog. Love, mercy and compassion enhances the beauty in a person's character.

الرَّاحِمُونَ يَرْحَمُهُمُ الرَّحْمَنُ ارْحَمُوا أَهْلَ الْأَرْضِ يَرْحَمَكُم مَّن فِي السَّمَاءِ (سنن أبي داود، ج4 ص582، المكتبة العصرية)
(Sunan Abi Dawood, V.4 Pg.285, Al Maktaba Al Asariyyah)

SHOWING A LOWER PROFIT MARGIN TO PAY LOWER TAX

Q: I live in the UK and run my own business. Paying taxes is affecting my life and my charity giving what do i do? Under Islam what are the rules for paying taxes. In the uk we have to pay 20% value added tax on profit made on every sale and then 25% corporation tax on the profit made at the end of the year, that's 45% in taxes!

Other Muslim people are not doing this by showing lower profit margins thus paying a lot less tax. Is this allowed in Islam?

A: We have stated in numerous of our Fataawaa that Muslim citizens residing as minorities in non-Muslim countries should conduct themselves as responsible citizens and abide by the citizenship agreement if they are not un-Islamic. If one is faced with an un-Islamic law, make use of the legal channels to address such concerns with one's Government.

Do not take the law in your own hands and do not violate the laws of the country. As an earning U.K. citizen, you are required to pay the various taxes. The general concept of an earning citizen contributing to the national budget is not completely alien to Islam. A citizen residing in a Muslim country is also required to contribute to national budget of the Government to fulfil its national responsibilities. Yes, there are different in the underlying philosophies and methodologies of taxes between a Muslim country and a non-Muslim country.

If you feel that the taxes are exorbitant, you should consider consulting a tax consultant and seek his guidance on how to decrease the taxes. You may adopt all legal avenues to do so without resorting to lies and deception. If one has expenses and that could decrease the profit margin, then one may adopt that avenue to decrease the taxes.

In order to do this, it is best to a tax consultant who has the expertise to use the law to one's advantage.

قال الحصكفي: الكذب مباح لإحياء حقه ودفع الظلم عن نفسه والمرداد التعريض لأن عين الكذب حرام قال ابن عابدين: (قوله الكذب مباح لإحياء حقه) كالشفيع يعلم بالبيع بالليل، فإذا أصبح يشهد ويقول علمت الآن، وكذا الصغيرة تبلغ في الليل وتختار نفسها من الزوج وتقول: رأيت الدم الآن واعلم أن الكذب قد يباح وقد يجب والضابط فيه كما في تبين المحارم وغيره عن الإحياء أن كل مقصود محمود يمكن التوصل إليه بالصدق والكذب جميعاً، فالكذب فيه حرام، وإن أمكن التوصل إليه بالكذب وحده فمباح إن أبيع تحصيل ذلك المقصود، وواجب إن وجب تحصيله كما لو رأى معصوما اختفى من ظالم يريد قتله أو إيذاءه فالكذب هنا واجب وكذا لو سأله عن ودیعة يريد أخذها يجب إنكارها، ومهما كان لا يتم مقصود حرب أو إصلاح ذات البين أو استمالة قلب المجني عليه إلا بالكذب فيباح، ولو سأله سلطان عن فاحشة وقعت منه سرا كزنا أو شرب فله أن يقول ما فعلته، لأن إظهارها فاحشة أخرى، وله أيضاً أن ينكر سر أخيه، وينبغي أن يقابل مفسدة الكذب بالمفسدة المترتبة على الصدق، فإن كانت مفسدة الصدق أشد، فله الكذب، وإن العكس أو شك حرم، وإن تعلق بنفسه استحب أن لا يكذب وإن تعلق بغيره لم تجز المسامحة لحق غيره والحزم تركه حيث أبيع، وليس من الكذب ما اعتد من المبالغة كجئت ألف مرة لأن المراد تفهيم المبالغة لا المرات فإن لم يكن جاء إلا مرة واحدة فهو كاذب أهـ ملخصاً ويدل لجواز المبالغة الحديث الصحيح «وأما أبو جهم فلا يضع عصاه عن عاتقه قال ابن حجر المكي: ومما يستثنى أيضاً الكذب في الشعر إذا لم يمكن حمله على المبالغة كقوله: أنا أدعوك ليلاً ونهاراً، ولا أخلي مجلساً عن شرك، لأن الكاذب يظهر أن الكذب صدق وپروجه، وليس غرض الشاعر الصدق في شعره، وإنما هو صناعة وقال الشيخان يعني الرافي والنووي بعد نقلهما ذلك عن القفال والصيدلاني وهذا حسن بالغ أهـ

رد المحتار على الدر المختار 427/6 - سعيد فتاوى محمودیه 233/24 - جامعہ فاروقیہ امداد الفتاوی 152/4 - مکتبہ دار العلوم کراچی

SMS COMPETITIONS & OFFERS

Q: In the celebration of Women's Day, Spar is offering a R150 OFF pamper voucher. In order to qualify, one has to only send an sms charged at R1.50. Normal sms rates and free sms's do not apply. Is it permissible to participate in such an offer?

A: In South Africa, any participation in an (SMS) short message service competition is charged at R1.50. On the other hand, a normal message is charged at a lesser rate. An (SMS) short message service competition is structured in the following manner:

Structure:

1. The networking company (MTN, VODACOM, CELLC etc.).
2. The (SMS) competition company (SMSCA/WAPSA etc.).
3. The Business Company (Spar etc. hosting the competition).

The networking company sells a short code (a five digit code) to the (SMS) competition company to administer the competition. At times, the (SMS) competition company is appointed as an agent to sell the short code to the business company hosting the competition.

The short code is used for value-added messages which can be billed at a higher rate than a standard SMS and may even subscribe a customer to a recurring monthly service.

In order to participate in a competition, a person has to send a message to a short code which will subscribe him/her to the competition.

Costs of Competition/Offer:

The customer sends a message to the short code charged at R1.50. The networking company subtracts 60 cents of the R1.50. The remainder 90 cents is charged as the cost of the message.

An amount of 40 cents of the 60 cents is earned by the (SMS) competition company. The balance of 20 cents is earned by the business company. (Note: the above figures are approximate and may differ using different services). In analyzing the Shariah compliancy of an (SMS) competition/offer, we have to determine if the element of gambling exists. Gambling is defined as a contract of risking loss or gain. In a general (SMS) competition, the two contracting parties are the customer and the business company. The customer subscribes to the competition by paying R1.50 in order to win, for e.g. R1000 or lose R1.50. As such, an (SMS) competition constitutes gambling (Qimaar) and is Haraam.

However, in the enquired scenario, that is not the situation. One is paying R1.50 and is guaranteed a R150 Off Spar pamper voucher. There is no contract of loss or gain. This is categorized as a conditional goodwill (Tabaar-e-Mashroot) by the business company in which the business company gifts the R150 Off Spar pamper voucher to anyone who sends an (SMS) message to the business companies short code in order to qualify for the voucher. This type of a conditional goodwill (Tabarru-e-Mashroot) is permissible in Shariah.

Hence, in the enquired situation, it would be permissible to participate in the Spars R150 Off pamper voucher offer as it does not entail any form of gambling (Qimaar), rather, it is a conditional goodwill (Tabaar-e-Mashroot) by the business company to anyone who sends an (SMS) to the business companies short code in order to qualify and is permissible in Shariah.

وَسُمِّيَ الْقَمَارُ قِمَارًا لِأَنَّ كُلَّ وَاحِدٍ مِنَ الْمُقَامِرِينَ مِمَّنْ يَجُوزُ أَنْ يَذْهَبَ مَالُهُ إِلَى صَاحِبِهِ، وَيَجُوزُ أَنْ يَسْتَفِيدَ مَالُ صَاحِبِهِ وَهُوَ حَرَامٌ بِالنَّصِّ، وَلَا كَذَلِكَ إِذَا شَرَطَ مِنْ جَانِبٍ وَاحِدٍ لِلزِّيَادَةِ وَالنَّقْصَانِ لَا تُمْكِنُ فِيهِمَا بَلْ فِي أَحَدِهِمَا تُمْكِنُ الزِّيَادَةُ، وَفِي الْآخَرِ الْإِنْتِقَاصُ فَقَطُّ فَلَا تَكُونُ مُقَامَرَةً لِأَنَّهَا مُفَاعَلَةٌ مِنْهُ زَيْلَعِي { رد المحتار على الدر المختار، ج 6، ص 403، دار الفكر-بيروت

وصورة ذلك: أن يقول الرجل لغيره: تعال حتى نتسابق، فإن سبق فرسك، أو قال: إبلك أو قال: سهمك أعطيك كذا، وإن سبق فرسي، أو قال: إبلي، أو قال: سهمي أعطني كذا، وهذا هو القمار بعينه؛ وهذا لأن القمار مشتق من القمر الذي يزداد وينقص، سمي القمار قماراً؛ لأن كل واحد من المقامرين ممن يجوز أن يذهب ماله إلى صاحبه، ويستفيد مال صاحبه، فيزداد مال كل واحد منهما مرة وينتقص أخرى

فإذا كان المال مشروطاً من الجانبين كان قماراً، والقمار حرام، ولأن فيه تعليق تملك المال بالخطر، وإنه لا يجوز { المحيط البرهاني، ج 5، ص 323، دار الكتب العلمية، بيروت - لبنان } . وَسُمِّيَ الْقَمَارُ قِمَارًا؛ لِأَنَّ كُلَّ وَاحِدٍ مِنَ الْقِمَارِينَ مِمَّنْ يَجُوزُ أَنْ يَذْهَبَ مَالُهُ إِلَى صَاحِبِهِ وَيَجُوزُ أَنْ يَسْتَفِيدَ مَالُ صَاحِبِهِ فَيَجُوزُ الْإِزْدِيَادُ

وَالنَّقْصَانُ فِي كُلِّ وَاحِدَةٍ مِنْهُمَا فَصَارَ ذَلِكَ قِيمَارًا وَهُوَ حَرَامٌ بِالنَّصِّ وَلَا كَذَلِكَ إِذَا شُرْطَ مِنْ جَانِبٍ وَاحِدٍ بِأَنْ يَقُولَ إِنْ سَقَيْتَنِي فَلَكَ عَلَيَّ كَذَا، وَإِنْ سَقَيْتَكَ فَلَا شَيْءَ لِي عَلَيْكَ؛ لِأَنَّ النَّقْصَانَ وَالزِّيَادَةَ لَا يُمْكِنُ فِيهِمَا وَإِنَّمَا فِي أَحَدِهِمَا يُمْكِنُ الزِّيَادَةُ وَفِي الْآخَرِ النَّقْصَانُ فَلَا يَكُونُ مُقَامَرَةً؛ لِأَنَّ الْمُقَامَرَةَ مُفَاعَلَةٌ مِنْهُ فَيَقْتَضِي أَنْ يَكُونَ مِنَ الْجَانِبَيْنِ وَإِذَا لَمْ يَكُنْ فِي مَعْنَاهُ جَارَ اسْتِحْسَانًا { البحر الرائق، ج 8، ص 554، دار الكتاب الإسلامي }

وَيَصِحُّ تَعْلِيلُ هَبَةِ وَحَوَالَةِ وَكِفَالَةٍ وَإِثْرَاءٍ عَنْهَا بِمِلَائِمٍ { الدر المختار، ج 5، ص 255، دار الفكر-بيروت } وَمَا يَصِحُّ وَ (لَا يَبْطُلُ بِالشَّرْطِ الْفَاسِدِ).... كَوْهَبُكَ هَذِهِ الْهَبَةُ أَوْ تَصَدَّقْتَ عَلَيْكَ بِهَا عَلَى أَنْ تَخْدُمَنِي سَنَةً نَهْرًا، فَتَصِحُّ وَيَبْطُلُ الشَّرْطُ لِأَنَّهُ فَاسِدٌ وَفِي جَامِعِ الْقُصُولَيْنِ: وَيَصِحُّ تَعْلِيلُ الْهَبَةِ بِشَرْطِ مِلَائِمٍ كَوْهَبُكَ عَلَى أَنْ تَعُودَنِي كَذَا، وَلَوْ مُخَالِفًا تَصِحُّ الْهَبَةُ لَا الشَّرْطُ. { رد المحتار على الدر المختار، ج 5، ص 249، دار الفكر-بيروت }

أَلْقَى شَيْئًا وَقَالَ مَنْ أَخَذَهُ فَهُوَ لَهُ فَلِمَنْ سَمِعَهُ أَوْ بَلَغَهُ ذَلِكَ الْقَوْلُ أَنْ يَأْخُذَهُ وَإِلَّا لَمْ يَمْلِكْهُ؛..... لِأَنَّهُ أَخَذَهُ عَلَى وَجْهِ الْهَبَةِ وَقَدْ تَمَّتْ { رد المحتار على الدر المختار، ج 4، ص 285، دار الفكر-بيروت }

{ جُلُّ قَالَ لِأَخَرَ: مَنْ أَكَلَ مِنْ مَالِي فَهُوَ فِي حِلٍّ، الْفَتَاوَى عَلَى أَنَّهُ يَحِلُّ، كَذَا فِي السَّرَاجَةِ { الفتاوى الهندية، ج 5، ص 345 }

إذا وضع الرجل مقداراً من السكر، أو عدداً من الدراهم بين قوم، وقال: من شاء أخذ منه شيئاً، أو قال: من أخذ منه شيئاً فهو له، فكل (من أخذ) منه شيئاً يصير ملكاً له، ولا يكون لغيره أن يأخذ ذلك منه؛ لأن هذا بمنزلة الهبة منه { المحيط البرهاني، ج 5، ص 353/354، دار الكتب العلمية، بيروت - لبنان }

احسن الفتاوى، ج 7، ص 259/260، ايج ايم سعيد كمبني
جامع الفتاوى، ج 9، ص 223، ادارة تاليفات اشرفيه
فتاوى دار العلوم زكريا، ج 5، ص 485-496، زمزم ببلشرز

FINE ON DELAYED PAYMENT

Q: If a person purchases goods on credit with the stipulation that payments will be in instalments, any fine due to delayed payment thereafter is clearly usury and interest. What can Muslim shop owners and businessmen do to be able to give goods on credit, ensure their payment is received on time and also abstain from usury? Please provide an answer.

A : It is permissible to purchase a commodity on cash or on credit on the stipulation that the deferred price is predetermined and agreed upon at the time of contracting the sale. However, according to Sharia, if the customer defaults in payment at the due date, the predetermined price cannot be increased and no further cost or fine can be imposed upon the defaulter .

Nevertheless, Muslim owners and businessmen may feel restricted since this can be potentially exploited by dishonest purchasers who intentionally fail to pay at its due date knowing that they will not be summoned to any additional amount on account of default. Therefore, the Islamic jurists have devised mechanisms to overcome this issue:

1. The businessmen and shop-owners could develop a system where such defaulters are duly penalised by depriving them from enjoying any facility from that company in future. However, this will be most effective where the businesses and companies are working in collaboration with each other and thus the defaulters are deprived from enjoying any facility from all the corporates within the umbrella. Prophet Muhammad (peace be upon him) said: “All the conditions agreed upon by the Muslims are upheld, except a condition which allows what is prohibited or prohibits what is lawful.”
2. The seller and purchaser may conclude a transaction whereby the price is agreed to be paid by a stipulated time; and if the purchaser defaults in payment within that certain period, the transaction would be void. This option in the terminology of Islamic jurists is called *Kh-iyar an-Naqd* (an option as to payment) .
3. Alternatively, the seller may further inflate the overall deferred price of the commodity at the time of transaction and then promise

to provide a discount equivalent to the amount inflated on receiving regular payment on instalments.

For example: A wants to sell a commodity for a total of R3 000 under an instalment plan. A wants to ensure regular payment and thus inflates the price of the commodity and sells it to B for a deferred payment of additional R500 constituting R3 500 in total. A promises an incentive and discount of R500 only if B does not default in his regular payment. In this way, A will efficiently retrieve the R3 000 price for the commodity and B will ensure he does not default in regular payment in order to save R500.

It is important to note that, however, if the default is due to a genuine reason, such as poverty, it will be a gesture of goodwill from the businessman to give respite to the customer and lengthen the time by which the payment is due. Allah Ta'ala says: "And if he (the debtor) is short of funds, then he must be given respite until he is well off."

According to Hadhrat Mufti Muhammad Taqi Usmani (may his shadow remain upon us), the company may compel the customer, when entering into a transaction, to a self-undertaken vow and promise that in defaulting in payment at the due date, a specified amount would be paid as a deterrent, importantly not to serve the interests of the company but, to a specific charitable fund.

From a practical and theoretical point of view, point three seems to be more favourable; as in the case of a penalty, it does not solve the creditor's problem. In the alternate situation, even if the debtor falters in the timeous payment, the creditor will be entitled to the excess R500 which may be more than the penalty amount and which does not compensate the creditor.

[AN INTRODUCTION TO ISLAMIC FINANCE, P.133-137, MAKTABA MA'ARIF AL-QUR'AN]

DURAR AL-HUKKAM FI SHARH MAJALLAT AL-AHKAM, RULE. 313

[AL-QUR'AN, 2: 280]

عن أبي هريرة قال قال رسول الله صلى الله عليه وسلم: من يسر على معسر يسر الله عليه في الدنيا والآخرة

[IBN MAJAH, 2412]

قال رسول الله صلى الله عليه وسلم: من أحب أن يظله الله في ظله فلينظر معسراً أو ليضع له

[IBID, 2414]

SEE: [AN INTRODUCTION TO ISLAMIC FINANCE, P.137-140, MAKTABA MA'ARIF AL-QUR'AN]

CASH AND CREDIT SALES

Q: There is a late payment executed in a fixed number of instalments at certain times with a price higher than the cash price. Is this sale permitted?

A: It is permissible to sell or purchase a commodity on fixed instalments at higher price than the cash price on condition that the deferred date of payment and price is predetermined and agreed upon at the time of contracting the sale.

For example, it is permissible for the seller to stipulate that if the buyer purchases a vehicle on cash then the cost will be R30000; however, if the same vehicle is purchased as a deferred payment on instalments, then the cost will be R35000. The date of payment and final purchase price must be specified when concluding the deal. However, according to Sharia, if the customer defaults in payment at the due date, the predetermined price cannot be increased and no further cost or late payment fine can be imposed upon the defaulter .

Similarly, the price cannot be unilaterally decreased if the customer settles the account prior to the deferred date . The debtor may ask the creditor for a discount on an earlier payment. If the creditor accepts to give a discount to the debtor, that will be a gesture of goodwill from his side as he is not bound to give him a discount upon an early payment of the debt .

... أما إذا كان البيع بطريق المراجعة وقد صرح فيه البائع بزيادة في الثمن من أجل الأجل وقد أفتى المتأخرون من الحنفية ويجوز للمشتري ان يزيد للبائع في الثمن ويجوز للبائع ان يزيد للمشتري في المبيع ويجوز ان يحط عن الثمن ويتعلق الاستحقاق بجميع ذلك

[AL-HIDAYAH, 3:80, MAKTABAH RAHMANIYAH, LAHORE]

ويجوز ان يحط من الثمن

[AL-MUKHTASAR LI AL-QADOORI, p.83, QADIMI KUTUB KHANA, KARACHI]

لأن للأجل شبهة بالمبيع، ألا ترى أنه يزداد في الثمن لأجل الأجل، والشبهة في هذا ملحقة بالحقيقة

[AL-HIDAYAH, 3: 78]

لأن الأجل في نفسه ليس مهال ، فلا يقابله شيء حقيقة إذا لم يشترط زيادة الثمن بمقابلته قصداً، ويزاد في الثمن لأجله ، إذا ذكر الأجل بمقابلة الأجل قصداً

[AD-DURR AL-MUKHTAR MA`A RADD AL-MUHTAR, 5:142; FATAWA HINDIYYAH, 3:136; FAT`H AL-QADEER, 6:262; TABYEEN

AL-HAQAA`IQ, 4:433]

[FATAWA DAR AL-ULOOM DEOBAND, 14: 338-9, DAR AL-ISHA`AT, KARACHI; FATAWA MAHMOODIYYAH, 16:151-9, DAR

AL-IFTA JAMIAH FAROQIYYAH, KARACHI]

أما الأئمة الأربعة وجمهور الفقهاء المحدثين ، فقد أجازوا البيع المؤجل بأكثر من سعر النقد بشرط أن يبيث العاقدان بأنه بيع مؤجل بأجل معلوم وبثمن ، متفق عليه، عند العقد

[BUHOOTH FI QADHAYA FIQHIIYAH MU`ASARAH, p.12, DAR AL-QALAM, DAMASCUS]

SEE: [AN INTRODUCTION TO ISLAMIC FINANCE, p.133-137, MAKTABA MA`ARIF AL-QUR`AN]

ومن هنا ذهب جمهور العلماء إلى القول بتحريم (ضع وتعجل

[BUHOOTH FI QADHAYA FIQHIIYAH MU`ASIRAH, p.28]

وبهذا تأخذ، من وجب له دين على إنسان إلى أجل، فسأل أن يضع عنه ، ويعجل له ما بقي ، لم ينغ ذلك ، لأنه يعجل قليلا بكثير دينا، فكأنه يبيع قليلا نقدا بكثير دينا ، وهو قول عمر بن الخطاب وزيد بن ثابت وعبد الله ابن عمر . وهو قول أبي حنيفة

[AL-MUWATTA LI AL-IMAM MUHAMMAD, 1:334]

إذا كان عليه دين مؤجل، فقال لغريمه: ضع عني بعضه وأعجل لك بقيته، لم يجز

[AL-MUGNI LI IBN QUDAMAH MA' A AS-SHARH AL-KABEER, 4:174-5]

وأما الربا في الدين فهو على وجهين: أحدهما أن يبيع رجلا متاعا بالنسيئة فلما حل الأجل طالبه رب الدين فقال المديون، زدني في الأجل
أزدك في الدراهم ففعل ذلك ربا. والثاني أن يقول رب الدين للمديون قبل محل الأجل أعطني مالي فأحط عنك بعضا من ديني ففعل فإن
ذلك ربا للمديون ولا يحل له ذلك

[AN-NUTAF FI AL-FATAAWAA, p.296, DAR AL-KUTUB AL-ILMIYYAH, BEIRUT]

من يسر على معسر يسر الله عليه في الدنيا والآخرة: عن أبي هريرة قال قال رسول الله صلي الله عليه وسلم

[IBN MAJAH, 2412]

قال رسول الله صلي الله عليه وسلم: من أحب أن يظله الله في ظله فلينظر معسرا أو ليضع له

[IBID, 2414]

LOTTERY FUNDING

Q: About us – Inter-Madrassah Organisation (hereafter referred to as IMO)

Background and Context: Following the IMO Board meeting to consider a funding application for a Sports Academy the question of public funding was raised and in particular the appropriateness of Lottery grant. The Board is to re-convene sometime May 2014 to consider both the bid and the relative merits of its funding source. In the event we have to seek Lottery funding, the Board will have to seek a unanimous decision without any abstentions to either approve or reject a funding application to the Lottery operator, Camelot.

IMO has experienced funding cuts during the period of changes and cut back in grants in the UK. The Government's austerity measures has hit organisations such as IMO who were largely dependent on Government funding to deliver its objectives. Similarly the cut back in Local Government funding leaves limited options for funding other than trust and or charitable foundations.

As a consequence the competition for funds is much greater and chances of success limited.

The Fatwa:

This Fatwa will form a major guide to that decision making process. All the trustees on the IMO Board are Sunni Muslims. The Board needs appropriate Shariah Guidance to make the necessary decision for the benefit of IMO and its beneficiaries.

I am asking this fatwa on behalf of the Board of IMO; an organisation, which aims to deliver projects which are aimed predominantly at young Muslims within our area. Its roots as stated in the title are based on the promotion of sports targeting young people within the Madrassah community with the outcome to engender physical and emotional well-being. In recent times, due to many challenges facing Muslims the work of IMO has also extended to promote community cohesion and ensuring that Muslims are better understood by the wider community. IMO mainly operates in Blackburn, the northern English town where the Muslim community accounts for about 20% of the overall population. In the inner-urban parts of the town, Islam is confidently practised with numerous Masjids and Madrassahs.

The inner-town concentration of Muslim population is about 40%. One such challenge that IMO has understood and has now become a part of its community strategy is to get the town's different faith and or no faith community working together and create a better understanding/confidence in each other. Our basis of a major bid to the National Lottery fund is to work across the Borough of Blackburn to develop a major Sports Academy which is part of an overarching Sports Development Strategy to better integrate all communities.

IMO the organisation has the following aims and objectives as part of its Charity Commission registration:

“To act as a resource for young people up to the age of 25 by providing advice and assistance and organising programmes of physical, educational and other activities as a means of:

- a) Advancing in life and helping young people by developing their skills, capacities and capabilities to enable them to participate in society as independent, mature and responsible individuals;
- b) Advancing education;
- c) Relieving unemployment;
- d) Providing recreational and leisure time activity in the interests of social welfare for people living in the area of benefit who have need by reason of their youth, age, infirmity or disability, poverty or social and economic circumstances with a view to improving the conditions of life of such persons.”

The above aims are mostly achieved by bidding for funds from local, regional and national organisations which provide funding to improve the lives of young people.

National Lottery

The only major source to deliver the Sports Academy project is through the National Lottery.

The operator of the National Lottery, Camelot, has a statutory responsibility to fund good causes from a percentage of gambling revenues through the sales of lottery tickets. This meant that over £35 million was allocated weekly to National Lottery Good Causes during 2012/13 and to date over £31 billion has been allocated to good causes. Camelot is responsible for generating returns for National Lottery Good Causes but plays no role in the allocation of funding, which is the responsibility of 12 National Lottery distribution bodies, each with specialist knowledge of their sectors.

In the year to 31 March 2013, the money National Lottery grants were allocated to projects which promoted health, education, environment, sports, arts and heritage.

Fatwa Question:

- 1.Can organisations which to was set-up predominantly and overwhelmingly benefit Muslims in the aspects identified above (i.e. health, education, environment, sports, arts and heritage) apply for funding from the National Lottery Good Causes fund?
- 2.Can the funds be used where the Lottery is the last source of funding, where the impact will have a positive impact on the non-Muslim community and encourages better inter-action and leads to greater cohesion and sense of belonging
- 3.Can National Lottery Good Causes funding, if successfully applied for, be used to pay the salaries of Muslim staff? Currently not all the paid staff are Muslims.
- 4.In the event that the answer to question 1 and 2 is negative, would it be acceptable to apply for National Lottery Good Causes funding as part of a consortium where we are NOT the lead partner. Our role would be to lend support to the bid and to then act as a sole delivery agent. Our delivery would still be funded by the National Lottery grant being pass-ported through the lead agency?

The Outcome: The drafted Fatwa will be circulated along with the Sports Academy papers with a recommendation to either approve or reject the grant application.

A: The National Lottery Fund is owned and regulated by the Government and as such the Government has appropriation (istila) of the funds.

If the bid is approved, it will be by the appropriation (istila) of the Government, hence the money may be used for the projects in reference. Alternatively, the Fuqahā have ruled that harām money could also be donated for public utilities. Accordingly, the funds from the National Lottery Fund could be used for the public projects in reference .

It should be understood that as Muslims we are strongly averse to gambling due to it being expressly harām . We even resent the mere attribution to it. In the enquired case, while there may be a leeway to utilise the funds based on fiqhi maxims and technicalities, the committee should ensure that there is no negative consequences whatsoever in pursuing the bid. In such a situation, maslahah should be strongly considered.

[IMDĀD AL-AHKĀM, 4: 408, MAKTABAH DĀR AL-ULŪM KARACHI]

فان كفار مكة أخرجوهم وأخذوا أموالهم وفي الآية دليل على ان كفار مكة ملكوا اموال المهاجرين التي خلفوها وهاجروا عنها لان الله تعالى اطلق عليهم الفقراء والفقير من لا يملك شيئا وليس من لا يملك مالا وهو في مكان لا يصل اليه فقيرا بل هو مخصوص باسم ابن السبيل ولذا عطفوا عليه في نص الصدقة ومن هاهنا قال ابو حنيفة ومالك الكفار إذا استولت على اموال المسلمين ملكوها بشرط الاحراز بدارهم عند ابى حنيفة وبمجرد الاستيلاء عند مالك وقال الشافعي لا يملكونها وذكر ابن همام لاحمد فيه روايتين كقول ابى حنيفة وكقول الشافعي وذكر ابن الجوزي قول احمد كقول الشافعي لا غير ويويد مذهب ابى حنيفة من الأحاديث ما رواه ابو داود في مراسيله عن تميم بن طرفة قال وجد رجل مع رجل ناقة له فارفعها الى النبي - صلى الله عليه وسلم - فاقام البيئته انها له واقام الاخر البيئته انه اشتراها من العدو فقال رسول الله - صلى الله عليه وسلم - ان شئت ان تأخذ بالثمن الذي اشتراها به فانت أحق والا فخل عنه ناقة والمرسل عندنا وعند أكثر اهل العلم حجة

[AL-TAFSĪR AL-MAZHĀRĪ (ARABIC), 7: 75-6, DĀR AL-KUTUB AL-ILMIYYAH]

[MA'ĀRIF AL-QUR'ĀN, 8: 371-2, RABBĀNĪ BOOK DEPOT, DELHI]

[FATĀWĀ DAR AL-ULŪM ZAKARIYYĀ, 5: 241-244, ZAMZAM PUBLISHERS]

[MAULĀNĀ ZAFAR AHMAD, IMDĀD AL-AHKĀM, 4: 386-90, MAKTABAH DAR AL-ULŪM KARĀCHI]

کفار مخاطب بالفروع فی العقوبات والمعاملات اگرچہ ہیں لیکن حکم بالحرمۃ والفساد کے لئے خطاب عام کافی نہیں بلکہ التزام بھی شرط ہے۔ اہل حرب نے تو احکام اسلام کا التزام بالکل نہیں کیا۔ نہ اپنے معتقد کے موافق میں اور نہ مخالف میں لہذا وہ تو جس طرح بھی رویہ کمائیں خواہ ربا سے خواہ غضب سے خواہ بیوع باطلہ و فاسدہ سے خواہ اپنے مذہب کے موافق خواہ مخالف طریق سے بہر صورت وہ رویہ وغیرہ ان کی ملک میں

[IMDĀD AL-AHKĀM, 4: 390, MAKTABAH DAR AL-ULŪM KARĀCHI] داخل ہو جائے گا اور مسلمان کو تنخواہ میں لینا اس کا جائز ہے پس یہی حکم و حال یہاں بھی ہوگا کہ محکمہ جس کے اصحاب حل وعقد خالص غیر مسلم ہوں یا مشترک ہوتے ہوں مگر اقتدار اعلیٰ غیر مسلم کے ہاتھ میں ہو اور وہ اپنے طور پر سودی کاروبار نفع حاصل کرکے کوئی رقم جمع کرے اور بطور تبرع کسی مسلمان ملازم کو دے تو اس کا لینا جائز رہے گا اور ہمد انعام داخل ہو کر طیب و حلال شمار ہوگا، اس کے علاوہ پہلی دونوں وجوہ (تبدل ملک سے حکمًا تبدل عین ہو جاتا ہے) اور (الخلط استہلاک کا ضابطہ) بھی صادق آ کر حکم حرمت ختم ہو جاتا ہے ... جو حضرات احتیاط برتتے ہیں اور یہ رقم نہیں لیتے، یہ احتیاط

شرعا اس وقت تک معتبر ہوگی جب تک کہ یہ ظن غالب ہو کہ نہ لینے کی صورت میں محکمہ اس رقم کو کسی غیر مسلم مذہبی ادارہ میں نہیں دیگا، اور اگر اس کا ظن غالب ہو جائے کہ ملازم اس رقم کو نہی لے گا تو محکمہ اس رقم کو کسی غیر مسلم مذہبی ادارہ میں "دان کھاتہ" میں دے دیگا تو پھر یہ نہ لے لینا شرعا صحیح و معتبر نہ ہوگا، بلکہ اس صورت میں کوئی شخص تقویٰ پر عمل کرنا چاہیے تو اس کی یہ صورت ... ہوگی کہ محکمہ سے وصول کرکے خود غریب و پریشان حال مسلمانوں پر بلا نیت ثواب صدقہ کردے یا کسی دینی ادارہ میں دیدے

[MUNTAKHABĀT NIZĀM AL-FATĀWĀ, 1: 208-9, MAKTABAH RAHMĀNIYYAH, LAHORE]

دار غیر اسلام میں تو بہت سے عقود فاسدہ میں فقہاء متأخرین نے توسع کیا ہے اور اس کے نظائر اکابر کے فتاویٰ میں ہے وإذا تزوج النصرانی نصرانیۃ علی مہر أو علی غیر مہر وذلك في [MUNTAKHABĀT NIZĀM AL-FATĀWĀ, 1: 253, MAKTABAH RAHMĀNIYYAH, LAHORE] دینہم جائز ودخل بها أو طلقها قبل الدخول بها أو مات عنها فليس لها مهر وكذلك الحراني في دار الحرب وهذا عند أبي حنيفة رحمه الله وهو قولهما في الحریین وأما في الذمیۃ فلها مهر مثلها إن مات عنها أو دخل بها وطلقها قبل الدخول بها وقال زفر رحمه الله لها مهر المثل في الحریین أيضا له أن الشرع ما شرع ابتغاء النکاح إلا بالمال وهذا الشرع وقع عاما فثبت الحكم

علی العموم ولهما أن أهل الحرب غیر ملتزمین احکام الإسلام وولاية الإلزام منقطعة لتباين الدار بخلاف أهل الذمة لأنهم التزموا احکامنا فيما يرجع إلى المعاملات كالربا والزنا وولاية الإلزام متحققة لاتحاد الدار ولأبي حنيفة رحمه الله أن أهل الذمة لا يلتزمون احکامنا في الديانات وفيما يعتقدون خلافة في المعاملات وولاية الإلزام بالسيف وبالجماعة وكل ذلك منقطع عنهم باعتبار عقد الذمة فإنا أمرنا بأن نتركهم وما يدينون فصاروا كأهل الحرب بخلاف ولهما أن أهل الحرب غیر ملتزمین الأحکام) وليس لنا عليهم ولاية الإلزام للتباين، بخلاف أهل الذمة فإنهم التزموها في المعاملات، وولاية الإلزام ثابتة فعززه إذا زنى ونهاه عن الربا ونحكم بفساده والنکاح منها، ولذا تجري عليهم احکامه من لزوم النفقة والعدة وثبوت النسب والتوارث به وثبوت خيار البلوغ وحرمة المطلقة ثلاثا ونکاح المحارم، وقد يقال من طرف زفر عدم التزامهم وقصور الولاية منا عنهم لا ينفي تحقق الوجوب عليهم لعموم الخطاب، حتى إذا ترفعنا إلينا لننفي عنهم بما لهمها حال كونهم حرا وإنا إنما أخرنا الوجوب ليظهر عند إمكان الإلزامهم أثره

قوله ولأبي حنيفة) حاصله منع المقدمة القائلة إنهم التزموا احکامنا في المعاملات بل ليسوا ملتزمین بعقد الذمة ما يعتقدون خلافة منها إلا ما شرط عليهم [FATĤ AL-QADIR,] ولذا لا نمنعهم من بيع الخمر والخنزير ونکاح المحارم، کذا في بعض کتب الفقه

وإذا تزوج الکافر بغير شهود أو في عدة کافر وذلك في دینہم جائز ثم أسلما أفرأ عليه وهذا عند أبي حنيفة وقال زفر رحمه الله النکاح فاسد في الوجهين إلا أنه لا يتعرض لهم قبل الإسلام والمرافعة إلى الحکام وقال أبو یوسف ومحمد رحمهما الله في الوجه الأول كما قال أبو حنيفة رحمه الله وفي الوجه الثاني كما قال زفر رحمه الله له أن الخطابات عامة علی ما مر من قبل فلتزعمهم وإنا لا يتعرض لهم لذمتهم إعراضا لا تقريرا فإذا ترفعوا أو أسلموا

والحرمة قائمة وجب التفريق ولهما أن حرمة نكاح المعتدة مجمع عليها فكانوا ملتزمين لها وحرمة النكاح بغير شهود مختلف فيها ولم يلتزموا أحكامنا بجميع الاختلافات ولأبي حنيفة رحمه الله أن الحرمة لا يمكن إثباتها حقا للشرع لأنهم لا يخاطبون بحقوقه ولا وجه إلى إيجاب العدة حقا للزوج لأنه لا يعتقد به خلاف ما إذا كانت تحت مسلم لأنه يعتقد به وإذا صح النكاح فحالة المرافعة والإسلام حالة البقاء والشهادة ليست شرطا فيها وكذا العدة لا تنافيها كالمكروهة إذا وطئت بشبهة

[MUFTI ABDUR RAHİM LĀIPŪRĪ, FATĀWĀ RAHĪMIYYAH, 9: 256-60, DAR AL-ISHĀ'AT, KARĀCHI]

یہ سود ہے مگر ڈاک خانہ سے وصول کر لینا چاہئے۔ وصول کر کے خود کسی قومی کام میں خرچ کر دینا چاہئے

[AL-JAM' IYYAH, 3 RABĪ' AL-AWWAL, 1350 A.H, 20 JULY 1931, COLUMN No. 3-4]

وصول کرنے کے بعد اس روپیہ کو امور خیر میں جو رفاہ عامسے تعلق رکھتے ہوں۔ مثلاً یتامی و مساکین اور طلبائے مدرسہ اسلامیہ کے وظائف اور امداد کتب وغیرہ میں خرچ کرنا یا مسافر خانہ یا کنواں، سڑکوں پر روشنی کرنا۔ یہ سب صورتیں جائز ہیں، البتہ مسجد پر خرچ نہ کیا جائے کہ یہ (تقدس مسجد کے لئے مناسب ہے) یہ فتوی جامعہ حسینیہ راندر کے کتب خانہ میں محفوظ ہے

PS: THERE ARE EIGHT SIMILAR FATĀWA RENDERED BY MUFTI MUHAMMAD KIFĀYATULLAH.

SEE: [MUFTI ABDUR RAHİM LĀIPŪRĪ, FATĀWĀ RAHĪMIYYAH, 9: 257-8, DAR AL-ISHĀ'AT, KARĀCHI]

ولا خلاف بين أهل العلم في تحريم القمار

[AHKAM AL-QUR'AN LI AL-JASSAS, 2:465, DAR IHYA AT-TURATH AL-ARABI, BEIRUT]

... وهو حرام بالنص القمار

[RADD AL-MUHTAR ALA AD-DURR AL-MUKHTAR, KITAB AL-HADHR WA AL-IBAHAH, 6:403]

ALSO SEE: [FATAWA MAHMOODIYYAH, 16:387-340; TAKMILAH FATH AL-MULHIM, 1:320; AHSAN AL-FATAWA, 7:24-5]

FOR A DETAILED DISCUSSION SEE: [ISLAM AUR JADED MA'ASHEE MASA'IL, 3:307-19, IDARAH ISLAMIYAAT]

BENEFITS PROGRAM FOR EMPLOYEES

My company recently announced a new end of term benefits for us expatriate employees, and I am trying to determine if this is permissible or not. As per the new benefits, we now have 2 options to opt into.

Option 1:

is to continue as before with no monthly contribution from my end. The end of service benefit remains the same, which is depending on total number of years service multiplied by my final salary.

For example, if an employee separates after 8 years of service with a base salary of 6,000, the payout from the program would be 36,000 (6 x 6,000). 6 times is determined from the following defined table:

Completed Service Payout:

Less than 3 years Zero

3 years to less than 6 years 3 x salary

6 years and less than 9 years 6 x salary

9 years and less than 12 years 9 x salary

more than 12 years 12 x salary

Option 2:

The employee will contribute 8% monthly plus 5% from his yearly bonus - the company then contributes the same as well as a bigger payout at time of resignation. There is no interest involved from any investments. The company has confirmed that the money will not be invested in any fund, but will be invested back into the company.

Using the same example above for option2 will be:

For example, if an employee separates after 8 years of service with a base salary of 6,000, the payout from the program would be 144,000 (24 x 6,000). 24 times is determined from the following defined table:

Completed Service Payout:

Less than 3 years 1 x service years x salary

3 years to less than 6 years 2 x service years x salary

6 years and less than 12 years 3 x service years x salary

12 years to 20 years 3.5 x service years x salary minus (6 x salary)

Is option 2 permissible?

A : It is important to understand that Islam has laid down a few guiding principles for investments in regards to the distribution of profit and loss that every Muslim must adhere to who contributes (or invests) capital as a partner in any sort of business venture:

- (1) He must assume the risk of loss
- (2) He is entitled to a share in the 'profit'
- (3) There cannot be a fixed rate of return ; therefore, no lump sum may be allocated for him

In regards to the benefits program offered by your employer, the company will be acting on your behalf by investing part of your income into the company itself. Therefore, under Islamic law, you qualify as being an investor and partner in this company.

"Option 2" of the Global Payroll Benefits Program offered by your company violates all three rules of investment mentioned above. As such, it will not be permissible for you to participate in such a program.

RENTAL PARTNERS

Q : I have a property n wish to sell half share of it. The partner agrees but says he will pay a little at a time. It takes about 6 months to pay the full amount. My question is this : when does he begin to be a partner? At the time of the agreement or upon fulfilling the first payment or upon completion of the total amount? So when does he begin to receive his share of the rentals? Also sometimes it takes alot of time, telephone calls and trips to n fro for collections of rent and repairs etc. Can i deduct these costs from the rentals before distribution?

A: According to Shari'ah a contract of sale is concluded with a proposal to sell or purchase and with an acceptance to purchase or sell in past or present tense. The immediate payment for the transaction is not a requirement for the validity of the transaction. As such, the partner shall receive his share from the moment he purchases the house even if he has not paid off the house in full.

Furthermore, it will not be feasible to deduct a portion of the income in order to compensate yourself for collecting rent. As an alternative, you may increase your profit ratio from the partnership through mutual consent with your partner. This amount may not be in lump sum, but instead, it must be based on a percentage of the profit.

(الْبَيْعُ يَنْتَقِذُ بِالْإِجَابِ وَالْقَبُولِ) الْإِنْعِقَادُ هَاهُنَا تَعَلُّقُ كَلَامِ أَحَدِ الْعَاقِدَيْنِ بِالْآخَرِ شَرْعًا عَلَى وَجْهِ يَظْهَرُ أَتَرُّهُ فِي الْمَحَلِّ. وَالْإِجَابُ الْإِثْبَاتُ. وَيُسَمَّى مَا تَقَدَّمَ مِنْ كَلَامِ الْعَاقِدَيْنِ إِجَابًا لِأَنَّهُ يَنْبُتُ لِلْآخَرِ خِيَارُ الْقَبُولِ، فَإِذَا قِيلَ يُسَمَّى كَلَامُهُ قَبُولًا وَحِينَئِذٍ لَا خَفَاءَ فِي وَجْهِ تَسْمِيَةِ الْكَلَامِ الْمُتَقَدِّمِ إِجَابًا وَالْمُتَأَخِّرِ قَبُولًا. وَشَرْطُهُ أَنْ يَكُونَ الْإِجَابُ وَالْقَبُولُ بِلَفْظَيْنِ مَاضِيَيْنِ مِثْلَ أَنْ يَقُولَ الْمُوجِبُ بَعْتُ وَالْمُجِيبُ اشْتَرَيْتُ لِأَنَّ الْبَيْعَ إِنَّمَاءٌ تَصْرُفِي شَرْعِي، وَكُلُّ مَا هُوَ كَذَلِكَ فَهُوَ يُعْرَفُ بِالشَّرْعِ، فَالْبَيْعُ يُعْرَفُ بِهِ (العناية شرح الهداية، ج ٣، ص ٧٥٤، دار الكتب العلمية)

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وَالثَّانِي أَنْ يَكُونَ الثَّمَنُ حَالًا فَإِنْ كَانَ مُؤَجَّلًا لَا يَنْبُتُ حَقُّ الْحَنِسِ؛ لِأَنَّ وَلَايَةَ الْحَنِسِ تَنْبُتُ حَقًّا لِلْبَائِعِ لِحَقِّهِ الْمُسَاوَاةَ عَادَةً لِمَا بَيَّنَّا، وَلَمَّا بَاعَ بِثَمَنِ مُؤَجَّلٍ فَقَدْ أَشْقَطَ حَقَّ نَفْسِهِ فَبَطَلَتْ الْوَلَايَةُ وَلَوْ كَانَ الثَّمَنُ مُؤَجَّلًا فِي الْعَقْدِ فَلَمْ يَقْبِضْ الْمُشْتَرِي الْمَبِيعَ حَتَّى حَلَّ الْأَجَلَ فَلَهُ أَنْ يَقْبِضَهُ قَبْلَ نَقْدِ الثَّمَنِ، وَلَيْسَ لِلْبَائِعِ حَقُّ الْحَنِسِ؛ لِأَنَّهُ أَشْقَطَ حَقَّ نَفْسِهِ بِالتَّأَجُّلِ، وَالسَّاقِطُ مُتَلَاوٍ فَلَا يَحْتَمِلُ الْعَوْدَ، وَكَذَلِكَ لَوْ طَرَأَ الْأَجَلَ عَلَى الْعَقْدِ بِأَنْ أُخِّرَ الثَّمَنُ بَعْدَ الْعَقْدِ فَلَمْ يَقْبِضْ الْبَائِعُ حَتَّى حَلَّ الْأَجَلَ لَهُ أَنْ يَقْبِضَهُ قَبْلَ نَقْدِ الثَّمَنِ، وَلَا يَمْلِكُ الْبَائِعُ حَبْسَهُ لِمَا قُلْنَا (بدائع الصنائع، ج ٥، ص ٩٤٢، دار الكتب العلمية - قديمي)

وَأَمَّا شَرَايِطُ لُزُومِ الْبَيْعِ بَعْدَ انْعِقَادِهِ وَتَقَاذِيرِهِ وَصَحَّتِهِ فَوَاجِدٌ وَهُوَ أَنْ يَكُونَ خَالِيًا عَنْ خِيَارَاتٍ أَرْبَعَةٍ خِيَارِ التَّعْيِينِ وَخِيَارِ الشَّرْطِ وَخِيَارِ الْعَيْبِ وَخِيَارِ الرُّؤْيَةِ فَلَا يَلْزَمُ مَعَ أَحَدِ هَذِهِ الْخِيَارَاتِ (بدائع الصنائع، ج ٥، ص ٣٧٤، دار إحياء التراث)

(الحصكفي) (وَيُزَجَّعُ عَلَى شَرِيكَهِ بِحُضْرَتِهِ مِنْهُ إِنْ أَدَّى مِنْ مَالٍ نَفْسِهِ) أَي مَعَ بَقَاءِ مَالِ الشَّرِكَةِ وَإِلَّا فَالشَّرَاءُ لَهُ خَاصَّةٌ لِنَلَا تَصِيرَ مُشْتَرِيًا عَلَى مَالِ الشَّرِكَةِ بِلَا إِذْنِ

بَحْرُ

(قال ابن عابدین) أُنْزِلَ لَمْ يَبْقَ مَالُ الشَّرْكَاءِ: أُنْزِلَ لَمْ يَبْقَ فِي يَدِهِ مَالٌ نَاصِبٌ بَلْ صَارَ مَالُ الشَّرْكَاءِ أَعْيَانًا وَأَمْنِيَةً فَاشْتَرَى بِدَرَاهِمِهِ أَوْ ذَكَائِرَ تَسْبِيَةِ فَالشَّرَاءُ لَهُ خَاصَّةٌ دُونَ شَرِيكَهِ؛ لِأَنَّهُ لَوْ وَقَعَ عَلَى الشَّرْكَاءِ صَارَ مُسْتَدِينًا عَلَى مَالِ الشَّرْكَاءِ
(رد المحتار علي الدر المختار، ج ٤، ص ٤١٣-٥١٣، ايج ايم سعيد كمبني)

(المادة ٥٨٢) إعطاء المشتري رهنا أو كفيلا بالثمن لا يسقط حق الحبس وكذلك إبراء البائع للمشتري من بعض الثمن المسمى لا يسقط حق البائع في حبس المبيع كله فإذ ذلك يحق للبائع أن يسلم المبيع حتى يقبض الثمن المعجل (رد المحتار، هندية)
(درر الحکام شرح مجلة الأحكام، ج ١، ص ٢٤٢، دار الكتب العلمية)

(المادة ١٨٢) إذا سلم البائع المبيع قبل قبض الثمن فقد أسقط حق حبسه وفي هذه الصورة ليس للبائع أن يسترد المبيع من يد المشتري ويخبره إلى أن يستوفي الثمن إن حق البائع في حبس المبيع يسقط بأحد عشر سببا: ١ - أن يسلم البائع المبيع إلى المشتري قبل قبض الثمن المعجل ولو كان البائع وبني الصغير ... ٤ - إذا قبض المشتري المبيع ورأه البائع فسكت ٥. 6 - أن يشتري شخص الدار التي يسكنها. ففي هذه الأحوال الست يسقط حق البائع في حبس المبيع (أنظر المادة 672) (هندية خلاصة: بزارية). وفي هذه الأحوال الست أيضا ليس للبائع حبس المبيع أو استرداده ليخبره حتى يقبض الثمن
(درر الحکام شرح مجلة الأحكام، ج ١، ص ٢٤٢، دار الكتب العلمية)

(المادة 382) في بيع التسيئة ليس للبائع حق حبس المبيع بل عليه أن يسلم المبيع إلى المشتري على أن يقبض الثمن وقت حلول الأجل. أي إذا كان كل الثمن مؤجلا (هندية) مثلا إذا باع شخص متاعا بمقني مؤجل ولم يطلب المشتري قبض المبيع فحل أجل قبض المبيع فالمشتري أن يقبض المبيع قبل نقد الثمن وليس للبائع حنسه لاستيفاء الثمن
(درر الحکام شرح مجلة الأحكام، ج ١، ص ٣٤٢، دار الكتب العلمية)

مطلب في حبس المبيع لقبض الثمن وفي هلاكه وما يكون قبضا [تنبية]:
البائع حبس المبيع إلى قبض الثمن، ولو بقي منه درهم ولو المبيع شئتين بصفقة واحدة، وسعى لكل منهما فله حنسهما إلى استيفاء الكل، ولا يسقط حق الحبس بالرهن ولا بالكفيل، ولا بإبرائه عن بعض الثمن حتى يستوفي الباقي، وتسقط بحواله البائع على المشتري بالثمن اتفاقا وكذا بحواله المشتري البائع به على رجل عند أبي يوسف، وعند محمد فيه روايتان. ويتأجل الثمن بعد البيع ويتسلم البائع المبيع قبل قبض الثمن فليس له بعده ردّه إليه
(رد المحتار علي الدر المختار، ج ٤، ص ١٦٥، ايج ايم سعيد كمبني)

(المادة 482) إذا باع حالاً أي معجلاً ثم أجل البائع الثمن سقط حق حبسه للمبيع وعليه حينئذ أن يسلم المبيع للمشتري على أن يقبض الثمن وقت حلول الأجل. لأن تأجيل البائع فيما بعد في حكم التأجيل ابتداء فيكون قد أسقط حقه في حبس المبيع حسب المادة الآتية وليس له أن يخس المبيع إلى حلول الأجل
(درر الحکام شرح مجلة الأحكام، ج ١، ص ٣٤٢، دار الكتب العلمية)

(المادة 353) للمشتري أن يبيع المبيع لآخر قبل قبضه إن كان عقارا...وقد جوزّه الشيخان استحساناً لأن ركن البيع أن يصدّر من أهله أن يكون البائع والمشتري مُمَيَّنَيْنِ عَاقِلَيْنِ وَأَنْ يَبْقَ فِي مَحَلِّهِ أَيْ فِي مَالٍ مَقْشُورٍ وَمِمَّا أَنْ يَهْلَكَ نَادِرٌ فِي الْعَقَارِ وَلَا اغْتِبَارَ لِلنَّادِرِ فَلَيْسَ فِي بَيْعِ الْعَقَارِ قَبْلَ الْقَبْضِ غَرَرٌ الْإِنْفِاسُ كَمَا فِي بَيْعِ الْمَنْقُولِ (أنظر المادة 42). (بدائع)، وقول المجلة (للمشتري أن يبيع) يعني أن البيع صحيح وفيه إشارة إلى المسألة الآتية وهي أن البيع المدكّر لا يكون لازماً ولا نافذاً لأنه موقوف على أداء المشتري الأول وهو البائع الثاني - فمن المبيع للبائع الأول أو على رضاه (أنظر المادة 872) يعني إذا كان البيع الأول على أن الثمن معجل فلم يدفع المشتري الثمن إلى البائع حتى ذلك الحين فإذا رضي البائع ببيع المشتري للعقار فالبائع الثاني نافذ (درر الحکام شرح مجلة الأحكام، ج ١، ص ٣١٢-٤١٢، دار الكتب العلمية)

Fatawa Darul Uloom Zakariyya, vol. 5, pg. 696-697, Zam Zam Publishers;

ولا يشترط تسليم المالكين ولا خلطهما كذا في خزائن المفتين
(الفتاوى الهندية، ج ٢، ص ٦٠٢، مكتبة رشدية)

المادة (1331) - (تلقسيم شركة العقد إلى قسمين...ولكن وقوع شركة كهذه على المساواة الثامنة نادرة وإذا عقدوا الشركة بدون اشتراط المساواة الثامنة تكون شركة عتاق)

(قال علي حيدر) ولا يشترط خلط رأس المال في شركة العتاق كما لا يشترط ذلك في شركة المفاوضة، فليذكر أن لو لأحد مائة دينار ولآخر مائة ريال فسيتم عقداً بذلك عقد شركة عتاق واشترت أولاً بالمائة الريال متاعاً ثم اشترت بالمائة الدينار متاعاً آخر وخسر في أحد المتاعين وزبحا في المتاع الآخر فيكون الزبح والخسارة حسب رأس مالهما لأن الزبح في الشركة مستند على العقد وليس على المال فليذكر لا تشترط المساواة والاعتداء والخلط (رد المحتار والوافع والبهر)
(درر الحکام شرح مجلة الأحكام، ج ٣، ص ٨١٣-١١٣، دار الكتب العلمية)

وَأَمَّا قَوْلُهُ: الشَّرْكَهَ تُبَيِّنُ عَنِ الْإِخْلَاطِ فَمُسْلَمٌ، لَكِنْ عَلَى اخْتِلَاطِ رَأْسِي الْمَالِ، أَوْ عَلَى اخْتِلَاطِ الرُّبْعِ فَهَذَا مِمَّا لَا يَتَعَرَّضُ لَهُ لَفْظُ الشَّرْكَهَ، فَيَجُوزُ أَنْ يَكُونَ تَسْمِيئُهُ شَرْكَهَ لِاخْتِلَاطِ الرُّبْعِ، لَا لِاخْتِلَاطِ رَأْسِ الْمَالِ، وَاخْتِلَاطِ الرُّبْعِ يُوَجِّدُ وَإِنْ اشْتَرَى كُلُّ وَاحِدٍ مِنْهُمَا بِمَالٍ نَفْسِهِ عَلَى جَدٍّ؛ لِأَنَّ الزِّيَادَةَ وَهِيَ الرُّبْعُ تَخْدُثُ عَلَى الشَّرْكَهَ. (وَأَمَّا) مَا هَلَكَ مِنْ أَحَدِ النَّائِبَيْنِ قَبْلَ الْخَلْطِ: فَإِنَّمَا كَانَ مِنْ تَصَيُّبِ صَاحِبِهِ خَاصَّةً؛ لِأَنَّ الشَّرْكَهَ لَا تَبَيَّنُ إِلَّا بِالشَّرَاءِ، فَمَا هَلَكَ قَبْلَهُ هَلَكَ قَبْلَ تَعَامِ الشَّرْكَهَ، فَلَا تَعْتَبَرُ حَتَّى لَوْ هَلَكَ بَعْدَ الشَّرَاءِ بِأَحَدِهِمَا: كَانَ الْهَالِكُ مِنَ الْمَالَيْنِ جَمِيعًا؛ لِأَنَّهُ هَلَكَ بَعْدَ تَعَامِ الْعَقْدِ. (وَأَمَّا) تَسْلِيمُ رَأْسِ مَالٍ كُلِّ وَاحِدٍ مِنْهُمَا إِلَى صَاحِبِهِ وَهُوَ التَّخْلِيَةُ بَيْنَ مَالِهِ وَبَيْنَ صَاحِبِهِ، فَلَيْسَ بِشَرْطٍ فِي الْعَيْنِ، وَالْمُفَاوَضَةُ جَمِيعًا وَأَلَّهُ شَرْطُ لِيَصَحَّ الْمُضَارَبَةُ، وَالْفَرَقُ بَيْنَهُمَا يُذَكِّرُ فِي كِتَابِ الْمُضَارَبَةِ. (بدائع الصنائع، ج ٥، ص ٩٧-١٠٠، دار إحياء التراث)

وَالَّذِي يَخْتَصُّ بِالِشْرَاقِ بَيَانُ الْقَدْرِ الَّذِي تَثْبُتُ فِيهِ الشَّرْكَهَ فَتَقُولُ وَيَا لَيْلَهُ التَّوْفِيقُ: الْمُشْتَرَى لَا يَخْلُو إِذَا كَانَ يَكُونُ لِوَاحِدٍ وَإِنَّمَا أَنْ يَكُونَ لِثَنَيْنِ أَوْ أَكْثَرَ فَإِنْ كَانَ لِوَاحِدٍ فَلَا شَرَكَ فِيهِ غَيْرُهُ فَلَا يَخْلُو إِذَا أَنْ يُشْرَكَ فِي قَدْرِ مَعْلُومٍ كَالنِّصْفِ وَالثُّلُثِ وَالرُّبْعِ وَنَحْوِ ذَلِكَ، وَإِنَّمَا أَنْ أَطْلَقَ الشَّرْكَهَ فَإِنْ اشْرَكَ فِي قَدْرِ مَعْلُومٍ فَلَهُ ذَلِكَ الْقَدْرُ لَا شَكَّ فِيهِ؛ لِأَنَّ حُكْمَ الْمُتَصَرِّفِي فِيهِ يَثْبُتُ فِي قَدْرِ مَا أُصِيبَ إِلَيْهِ هُوَ الْأَصْلُ... وَتَوَاضَعُ رَجُلًا فِي نِصْفِهِ فَلَمْ يَقْبِضْهُ حَتَّى هَلَكَ نِصْفُهُ فَالْجَزَاءُ بِالْجِزَاءِ إِنْ شَاءَ أَخَذَ نِصْفَ مَا بَقِيَ وَهُوَ رُبْعُ الْكُرِّ وَإِنْ شَاءَ تَرَكَ؛ لِأَنَّهُ كَانَ لَهُ نِصْفُ شَائِعٍ مِنْ ذَلِكَ فَمَا هَلَكَ هَلَكَ عَلَى الشَّرْكَهَ وَمَا بَقِيَ بَقِيَ عَلَى الشَّرْكَهَ وَلَهُ الْجِزَاءُ إِذَا كَانَ قَبْلَ الْقَبْضِ؛ لِأَنَّ الصَّفَقَةَ قَدْ تَفَرَّقَتْ عَلَيْهِ، وَكَذَلِكَ لَوْ بَاعَ رَجُلٌ نِصْفَ الْكُرِّ ثُمَّ هَلَكَ نِصْفُهُ قَبْلَ الْقَبْضِ لِمَا فَلَنَا وَتَوَاضَعُ رَجُلًا مَكَانَ الْهَلَاكِ اسْتَحَقَّ أَنْ اسْتَحَقَّ نِصْفَ الْكُرِّ فَهَهُمَا يَخْتَلِفُ حُكْمُ الشَّرْكَهَ وَالتَّبَيُّنُ فَيَكُونُ النِّصْفُ الْبَاقِي لِلْمُشْتَرِي خَاصَّةً فِي الْبَيْعِ وَفِي الشَّرْكَهَ يَكُونُ بَيْنَهُمَا وَإِنَّمَا كَانَ كَذَلِكَ؛ لِأَنَّ الْبَيْعَ أُصِيبَ إِلَى نِصْفِ شَائِعٍ وَتَعَذَّرَ تَنْفِيذُهُ فِي النِّصْفِ الْمُسْتَحَقِّ لِانْعِدَامِ الْمِلْكِ وَأَمَّا تَنْفِيذُهُ فِي نِصْفِ الْمَمْلُوكِ فَيَجِبُ تَنْفِيذُهُ فِيهِ وَكَذَلِكَ فِي الشَّرْكَهَ إِلَّا أَنْ تَنْفِيذُهُ فِي النِّصْفِ الْمَمْلُوكِ يَفْتَضِي الْمُسَاوَاةَ بَيْنَهُمَا فِي ذَلِكَ النِّصْفِ، وَكَذَلِكَ بَأَنْ يَكُونَ نِصْفُهُ لِلرَّجُلِ وَنِصْفُهُ لَهُ (بدائع الصنائع، ج ٥، ص ٧٤، دار إحياء التراث)

Imdadul Ahkam, vol. 3, pg. 330 & 339, Maktabah Darul Uloom Karachi;

Imdadul Ahkam, vol. 3, pg. 356, Maktabah Darul Uloom Karachi;

Fatawa Rahimiyyah, vol. 9, pg. 183, Darul Isha'at

Fatawa Diniyyat, vol. 4, pg. 276, Jami'ah Husayniyyah

TECHNICAL VIDEO ENGINEER

Q: I got a job as Technical Video Engineer in Primefocus technologies and my role will be *Live Streaming Sports Events and Transcoding for Videos on Demand. *Installing and testing new facilities and equipment based on VoIP workflows and Networking. Does shariah allow such kind of jobs ?

A: Your sensitivity to earning a halal income is commendable. Earning a halal income invokes the mercy of Allah Ta'ala and barakah in one's wealth.

In your query, you have listed three types of work that you will be involved with. Our analysis on each is as follows:

1.Live Streaming Sports Events: Typical sports events may display adverts that expose underdressed women , promote items such as cigarettes and alcohol , and play music in the background . The consequence all of these negativities may be lesser or worse depending on which sports you are expected to stream. Furthermore, some `Ulamā` held a staunch view against watching sports events as it leads many Muslims to waste their time and even be negligent of their Islamic duties.

2.Transcoding for Videos on Demand: Most VOD services include objectionable content such as movies and TV shows. While sports events may not include high levels of inappropriate content, it is apparent that movies and TV shows are a prime source for immoral content depicting people in varying situations that become worse depending on the intended audience of a specific movie or show. This is disregarding the fact that VOD here may include even more filthy content depending on the services and packages offered by each individual company.

3.Installing and testing new facilities and equipment based on VoIP workflows and Networking: While this part of the job does not seem to hold any issues contradictory to Sharī`ah, we are unable to comment unless we know what this “testing” entails and how exactly is such a company intending to use VoIP for their services.

Based on the analysis above, we advise you to desist from such types of work and seek employment elsewhere.

وَأَمَّا الْمَرْءُ الْحُرَّةُ الَّذِي لَا يَكُاحُ بَيْنَهُ وَبَيْنَهَا وَلَا حُرْمَةٌ مِمَّنْ يَحِلُّ لَهُ يَكَاَحُهَا فَلَيْسَ يَتَّبِعِي لَهُ أَنْ يَنْظُرَ إِلَى شَيْءٍ مِنْهَا مَكْشُوفًا إِلَّا الْوَجْهَ وَالْكَفَّ
(الأصل للإمام محمد بن الحسن الشيباني، ج ٢، ص ٥٣٢، دار ابن حزم)

وَأَمَّا النَّوْءُ السَّادِسُ وَهُوَ الْأَجْنَبِيَّاتُ الْحَرَائِجُ فَلَا يَحِلُّ النَّظَرُ لِلْأَجْنَبِيِّ مِنَ الْأَجْنَبِيَّةِ الْحُرَّةِ إِلَى سَائِرِ بَدَنِهَا إِلَّا الْوَجْهَ وَالْكَفَّيْنِ لِقَوْلِهِ تَبَارَكَ وَتَعَالَى { قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَنْصَابِهِمْ } إِلَّا أَنْ النَّظَرَ إِلَى مَوَاضِعِ الرِّبَّةِ الطَّاهِرَةِ وَهِيَ الْوَجْهَ وَالْكَفَّانِ
(بدائع الصنائع، ج ٦، ص ٢٩٤، دار الكتب العلمية)

(ولا ينظر من اشتهى إلى وجهها إلا الحاكم والشاهد وينظر الطبيب إلى موضع مرضها) والاصل أنه لا يجوز أن ينظر إلى وجه الاجنبية بشهوة لما روينا إلا للضرورة
(البحر الرائق، ج ٨، ص ٢٩١، إيج ايم سعيد كمبني)

(وَالشَّرَابُ) لُغَةً: كُلُّ مَا نَعِيَ يَشْرَبُ وَاضْطِلَاخًا (مَا يُسَكَّرُ وَالْمُحَرَّمُ مِنْهَا أَرْبَعَةٌ) أَنْوَاعُ.
(الْأَوَّلُ: الْخَمْرُ وَهِيَ النَّبِيءُ) يَكْسِرُ النَّوْنَ فَتَشْدِيدُ الْيَاءِ (مِنْ مَاءِ الْعَنْبِ إِذَا غُلِيَ وَاشْتَدَّ وَقَدْفٌ) أَيُّ رَمَى (بِالرَّيْدِ) أَيُّ الرُّغْوَةِ وَلَمْ يَشْرَبْ قَدْفَهُ وَبِهِ قَالَتْ الثَّلَاثَةُ وَبِهِ أَخَذَ
أَبُو حَفْصٍ الْكَبِيرُ، وَهُوَ الْأَطْهَرُ كَمَا فِي السُّنَنِ لِلْإِسْلَامِ عَنْ الْمَوَاهِبِ وَيَأْتِي مَا يُفِيدُهُ وَقَدْ تَطَلَّقَ الْخَمْرُ عَلَى غَيْرِ مَا ذَكَرَ مَجَازًا، ثُمَّ شَرَعَ فِي أَحْكَامِهَا الْعَشْرَةَ فَقَالَ (وَحُرْمٌ قَلِيلُهَا
وَكَثِيرُهَا) بِالْإِجْمَاعِ
(الدر المختار مع حاشية ابن عابدين، ج ٤، ص ٨٦٦، إيج ايم سعيد كمبني)

(قوله وكره كل لهو) أي كل لعب وعبث فالثلاثة بمعنى واحد كما في شرح التأويلات والإطلاق شامل لنفس الفعل، واستماعه كالرقص والسخرية والتصفيق وضرب
الأوتار من الطنبور والبربط والرباب والقانون والمزمار والصنج والبوق، فإنها كلها مكروهة لأنها زي الكفار، واستماع ضرب الدف والمزمار وغير ذلك حرام وإن سمع
بغثة يكون معذورا ويجب أن يجتهد أن لا يسمع قهستاني
(رد المحتار علي الدر المختار، ج ٦، ص ٥٩٣، إيج ايم سعيد كمبني)

Fatāwā, v. 10 p. 236, Dārul Ishā'at

The majority of cable- and telco-based television providers offer both VOD streaming, including pay-per-view and free content, whereby a user buys or selects a movie or television program and it begins to play on the television set almost instantaneously, or downloading to a DVR rented from the provider, or downloaded onto a PC, for viewing in the future. Internet television, using the Internet, is an increasingly popular form of video on demand.

["Video on Demand", Wikipedia, accessed on December 27, 2014]

Fatāwā Haqqāniyyah, v. 2 p. 469, Jāmi'ah Dārul 'Ulūm Haqqāniyyah

Fatāwā Mahmūdiyyah, v. 19 p. 511, Darul Iftaa Jāmi'ah Fārūqiyyah

"MPAA", IGN, accessed on December 27, 2014, <http://www.ign.com/wikis/content-ratings/MPAA>

RETIREMENT PROGRAMS & LIFE INSURANCE FOR EMPLOYEES

Q: 1. Are Employee benefits such as contributing to an employee's retirement permissible considering that that fund that is chosen is Non Shariah compliant?

2. Is it permissible to provide cover for employees (Non - Muslim) from the employer (Muslim) for the following: Life Insurance,

Disability Cover and Severe illness? This will be done under the basis that the employer contributes half of the premium and the employee contributes the balance.

A: 1. Since there are numerous types of retirement/pension programs that different employers have utilized for their respective employees, some permissible and others not, we are unable to issue a general ruling regarding such plans without analyzing each program and its structure individually. If you would like us to comment on a certain type of fund, you may forward us the contract for that specific plan.

2. It is impermissible for a Muslim employer to provide conventional insurance policies to one's employees as the transaction includes many elements that are contrary to Islamic law such as interest , qimār (gambling), and gharar (deception). However, if the non-Muslims themselves sign up for such policies without any involvement or contribution from your end (or your company), then it will be permissible for them to do so as employees of your company. In order to compensate them for the extra payments they will have to make towards these policies, you may increase their salaries accordingly.

Note: This does not apply to Muslim employees as it is impermissible for them to sign up for such policies.

(لَأَنَّ الرِّبَا هُوَ الْفُضْلُ الْمُسْتَحَقُّ لِأَحَدِ الْمُتَعَاذِينَ فِي الْمُعَاوَضَةِ الْخَالِي عَنْ عَوَضٍ شَرَطٍ فِيهِ) أي في العقد
(العناية شرح الهداية، ج ٢، ص ٣٦٦، دار الكتب العلمية)

وقال علماؤنا: هو نوع بيع فيه فضل مستحق لأحد المتعاضدين خال عما يقابله من عوض شرط في هذا العقد، وعلى هذا سائر أنواع البيوع الفاسدة من قبيل الربا، وفي جميع المعلوم الربا شرعا عبارة عن عقد فاسد وإن لم يكن زيادة، لأن بيع الدراهم بالدراهم نسبية ربا، وإن لم يتحقق فيه زيادة
(البنية شرح الهداية، ج ١، ص ٧٨٣، المكتبة الحقانية)

[قال الحكفني] (إن شُرطَ الْمَالِ فِي الْمُسَابَقَةِ مِنْ جَانِبٍ وَاحِدٍ وَحَرَّمَ لَوْ شُرِطَ فِيهَا مِنْ الْجَانِبَيْنِ) لِأَنَّهُ يَصِيرُ قِمَارًا [قال ابن عابدين] (قَوْلُهُ لِأَنَّهُ يَصِيرُ قِمَارًا) لِأَنَّ الْقِمَارَ الَّذِي يَزْدَادُ تَارَةً وَيَنْقُصُ أُخْرَى، وَسُمِّيَ الْقِمَارُ قِمَارًا لِأَنَّ كُلَّ وَاحِدٍ مِنَ الْمُقَامِرِينَ مَعْنَى يَجُوزُ أَنْ يَذْهَبَ مَالُهُ إِلَى صَاحِبِهِ، وَيَجُوزُ أَنْ يَسْتَفِيدَ مَالَ صَاحِبِهِ وَهُوَ عَرَامٌ بِالْغُلُوبِ، وَلَا كَذَلِكَ إِذَا شُرِطَ مِنْ جَانِبٍ وَاحِدٍ لِأَنَّ الزِّيَادَةَ وَالنَّقْصَانَ لَا يُمْكِنُ فِيهِمَا بَلْ فِي أَحَدِهِمَا تُمْكِنُ الزِّيَادَةُ، وَفِي الْآخَرِ الْإِنْتِقَاصُ فَقَطُّ فَلَا تَكُونُ مُقَامَرَةً لِأَنَّهَا مُتَاعَلَةٌ مِنْهُ زِلْعَلِي (رد المحتار علي الدر المختار، ج ٦، ص ٣٠٤، إيج ابم سيعد كمبني)

عَنْ أَبِي عُبَّاسٍ فِي قَوْلِهِ: (يَسْأَلُونَكَ عَنِ الْخَمْرِ وَالْمَيْسِرِ فَقُلْ فِيهِمَا إِثْمٌ كَبِيرٌ) قَالَ: الْمَيْسِرُ: هُوَ الْقِمَارُ، كَانَ الرَّجُلُ فِي الْجَاهِلِيَّةِ يُخَاطِرُ عَلَى أَهْلِهِ وَمَالِهِ

فَأَنْزَلَ اللَّهُ: (إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رَجَسٌ مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ) [المائدة: 09]، قَالَ: فَالْمَيْسِرُ: الْقِمَارُ (أحكام القرآن للجصاص، ج ١، ص ١٩٣، دار الكتب العلمية)

(وَالسَّمَكُ قَبْلَ الصَّيْدِ) أَيُّ لَا يَجُوزُ بَيْعُ السَّمَكِ قَبْلَ الْإِضْطِیَادِ لِمَا رُوِيَ أَنَّهُ - عَلَيْهِ السَّلَامُ - «نَهَى عَنْ بَيْعِ الْغَرَرِ» رَوَاهُ أَحْمَدُ وَمُسْلِمٌ وَأَبُو دَاوُدَ وَغَيْرُهُمْ وَعَنْ ابْنِ مَسْعُودٍ أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ «لَا تَشْتَرُوا السَّمَكَ فِي الْغَاءِ فَإِنَّهُ غَرَرٌ» رَوَاهُ أَحْمَدُ وَلَأَنَّهُ بَاعَ مَا لَمْ يَمْلِكْ فَلَا يَجُوزُ ثُمَّ هُوَ عَلَى وَجْهِينِ فَإِمَّا أَنْ يَبِيعَهُ قَبْلَ أَنْ يَأْخُذَهُ أَوْ بَعْدَهُ فَإِنْ بَاعَهُ قَبْلَ الْاِخْذِ لَا يَجُوزُ لِمَا بَيَّنَّا وَإِنْ أَخَذَهُ ثُمَّ الْفَاهِ فِي الْخَطِیْرَةِ فَإِنْ كَانَتْ الْخَطِیْرَةُ كَبِیْرَةً بِخَبَرٍ لَا يُمْكِنُ اخْذُهُ إِلَّا بِحِيلَةٍ لَا يَجُوزُ؛ لِأَنَّهُ بَاعَ مَا لَا يَقْدِرُ عَلَى تَسْلِيمِهِ (تبیین الحقائق، ج ٣، ص ٥٤٤، مكتبة إمدادية)

عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ حَمَلَ عَلَيْنَا السِّلَاحَ فَلَيْسَ مِنَّا، وَمَنْ غَشَّنَا فَلَيْسَ مِنَّا» (صحيح مسلم، سنن ابن ماجه)

عَنْ أَبِي هُرَيْرَةَ، قَالَ: «نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ الْخَصَاةِ، وَعَنْ بَيْعِ الْغَرَرِ» (صحيح مسلم، باب بطلان بيع الخصاة و البيع الذي فيه الغرر)

Fatāwā Mahmūdīyyah, v. 16 p 387, Dārul Ifā' Jāmi' ah Fārūqīyyah;

In 'amul Bārī, v. 6 p.280, Maktabah al-Hirā';

Āp Ke Masāil Aur Unka Hal, v. 7 p. 361-361, Maktabah Ludhiānwīyyah

GIVING INTEREST TO AN IMAM

Q: I am a masjid management committee member. This masjid mostly runs from the donations. During Ramadan, all our members go for donation collection to various places in our city and this will be spent partly during ramadan. The excess left over money that would be around INR 150,000 is deposited in bank account. The interest accrued from this amount is being used for monthly Imam salary and all maintenance expenses and recently built toilet from Interest money.I raised this issue in one of our meetings and one of the senior members shut my mouth by saying that he already checked with some Imam of the city (NOT THIS MASJID IMAM). Now, This masjid Imam was very unhappy and now left to another masjid citing

shariah issues on finance dealings of the masjid as no one hears him. I request you to give fatwa on the permissibility of Interest money in this case so that I would show them.

A: The Masjid is the house of Allah. It is the most revered area of any place. The trustees of a Masjid are entrusted with administering the affairs of the house of Allah according to the laws of Shari'ah. A trustee ought to be an Amīn (a trustworthy person). He must be a person who fears Allah and is sensitive to the laws of Shari'ah and regulates the affairs of the Masjid according to Shari'ah. It does not behove a person who is not conscious of the laws of Shari'ah to be a trustee of a Masjid. A trustee should know the basic laws of Shari'ah and should refer to reliable 'Ulamā in issues he does not know.

Interest has been regarded haram in many verses and narrations. Consider the following:

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ
الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ
أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

“Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, “Trade is [just] like interest.” But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein.”

In another place, Allah Ta'ālā mentions:

يَمْحَقُ اللَّهُ الرِّبَا وَيُزِيهِ الصَّدَقَاتِ وَاللَّهُ لَا يُحِبُّ كُلَّ كَفَّارٍ أَثِيمٍ

“Allah destroys interest and gives increase for charities. And Allah does not like every sinning disbeliever.”

The Prophet Sallallāhu ‘Alayhi Wasallam has mentioned:

دِرْهَمٌ رِبَا يَأْكُلُهُ الرَّجُلُ وَهُوَ يَعْلَمُ أَشَدُّ مِنْ سِتٍّ وَثَلَاثِينَ زَنِيَّةً

“One dirham of interest/usury which a man consumes while he is aware (of it being interest) is more severe than thirty-six counts of adultery.”

The Prophet Sallallāhu ‘Alayhi Wasallam mentions in another narration:

لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ آكِلَ الرِّبَا، وَمُؤْكِلَهُ، وَكَاتِبَهُ، وَشَاهِدَيْهِ، وَقَالَ: «هُمْ سَوَاءٌ»

Allah's Messenger cursed the acceptor of interest and its payer, and one who records it, and the two witnesses, and he said: They are all equal.

The prohibition of interest is clear. General Muslims and even Non-Muslims know interest is prohibited in Islam. How can a trustee not know that? How can a trustee of a Masjid deliberately engage in earning interest with the money of the Masjid? Such an ignorant person should not be a trustee and should be removed.

If by chance, interest comes into one's possession, it will be incumbent upon the person to give the interest amount into charity without any intention of reward to the poor and needy.

In the enquired case, it is haram to use interest money to pay wages of an Imam. No Ālim or Mufti can issue such a fatwa. To pay a person who is a heir (wārith) of Rasulullah Sallallāhu ‘Alayhi Wasallam , looking after the masjid and the musallah, with haram and filthy money of interest is an insult to Deen and the ‘Ulamā. That attitude reflects the total disregard for Deen and the ‘Ulamā.

Such a trustee should be investigated if he himself uses such haram money to feed his wife and beloved children. The position of an Imam is a high and lofty one. He is the deputy of Rasulullah Sallallāhu Alayhi Wasallam. He should be respected and honored. It is stated in a Hadith that looking at the face of an Ālim is an act of Ibādah , let aside paying for his legitimate services with haram interest money. The trustee in reference should resign or be removed or he should make sincere tawba and apologize to the Imām for the embarrassment he caused. In this lies his protection for his Deen and salvation for the hereafter.

Furthermore, interest money cannot be used to maintain the Masjid and the toilets of a Masjid.

[سورة البقرة، الآية ٥٧٢]

[سورة البقرة، الآية ٦٧٢]

[مجمع الزوائد ومنيع الفوائد، كتاب البيوع، باب ما جاء في الربا، ج٤، ص١٢، دار الفكر]

[صحيح مسلم، كتاب المساقاة، كتاب أكل الربا وموكله، ج٣، ص٩١٢، دار احياء التراث العربي]

قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: " رَأَيْتُ اللَّيْلَةَ رَجُلَيْنِ أَتَانِي، فَأَخْرَجَانِي إِلَى أَرْضٍ مُقَدَّسَةٍ، فَأَنْطَلَقْنَا حَتَّى أَتَيْنَا عَلَى نَهْرٍ مِنْ دَمٍ فِيهِ رَجُلٌ قَائِمٌ وَعَلَى وَسْطِ النَّهْرِ رَجُلٌ بَيْنَ يَدَيْهِ حِجَارَةٌ، فَأَقْبَلَ الرَّجُلُ الَّذِي فِي النَّهْرِ، فَإِذَا أَرَادَ الرَّجُلُ أَنْ يَخْرُجَ رَمَى الرَّجُلُ بِخَجَرٍ فِي فِيهِ، فَرَدَّهُ حَيْثُ كَانَ، فَجَعَلَ كُلُّمَا جَاءَ لِيَخْرُجَ رَمَى فِي فِيهِ بِخَجَرٍ، فَبَزَجَ كَمَا كَانَ، فَقُلْتُ مَا هَذَا؟ فَقَالَ: الَّذِي رَأَيْتَهُ فِي النَّهْرِ أَكَلَ الرِّبَا "

[صحيح البخاري، كتاب البيوع، باب أكل الربا وشاهده وكتابه، ج٣، ص٩٥، دار طوق النجاة]

رجل دفع إلى فقير من المال الحرام شيئا يرجو به الثواب يكفر، ولو علم الفقير بذلك فدعا له وأمن المعطي كفرا جميعا

[رد المحتار، باب زكاة الغنم، ج٣، ص٢٩٢، سعيد]

[فتاوى دينية، ما يتعلق بالبنوك، ج٤، ص٧٢١، جامعة حسينية راندير]

[فتاوى محمودية، باب المال الحرام ومصرفه، ج٨١، ص٣٤٤، جامعة فاروق]

442-042 .gp behaS iqaT iftuM yb awataF yraropmetnoC

إِنَّ الْعُلَمَاءَ وَرَثَةُ الْأَنْبِيَاءِ، إِنَّ الْأَنْبِيَاءَ لَمْ يُورَثُوا دِيْنَارًا وَلَا دِرْهَمًا إِنَّمَا وَرَثُوا الْعِلْمَ، فَمَنْ أَخَذَ بِهِ أَخَذَ بِحَظِّهِ وَأَفِرَ [جامع الترمذي، ابواب العلم، باب ما جاء في فضل الفقه علي العبادة، ج ٤، ص ٦٤٣، دار الغرب الاسلامي]

(نظرة في وجه العالم: أحب إلى الله من عبادة ستين سنة صيامًا وقيامًا)
كذا في نسخة سمعان بن المهدي عن أنس مرفوعًا، وأورده الديلمي بلا سند عن أنس مرفوعًا بلفظ: "النظر إلى وجه العالم عبادة، وكذا الجلوس معه والأكل والكلام"، ولا يصح شيء من ذلك كله كما سبق ذلك قال القاري: وقد ورد: "النظر إلى وجه علي عبادة"؛ رواه الطبراني والحاكم عن ابن مسعود وعمران بن الحصين. انتهى؛ لكن قال الحاكم: صحيح. وقال الذهبي: إنه موضوع باطل، وأورده ابن الجوزي في الموضوع، وتعبه السيوطي: بأنه ورد من رواية أحد عشر صاحبًا [كشف الخفاء، حرف النون، حديث ١١٨٢، ج ٢، ص ٤٨٣، المكتبة العصرية]

[فتاوي محمودية، باب المال الحرام ومصرفه، ج ٨١، ص ٧٤٤-٩٤٤، جامعة فاروقية]

[فتاوي دينية، مصرف الربا، ج ٤، ص ٩٥١، جامعة حسنية راندير]
[آب كي مسائل اور انكا حل، سود كا رقم كا مصرف، ج ٦، ص ٤٣٢-٥٣٢، مكتبة لدهيانوي]

وفي العلائية: مسجد في حق جواز الاقتداء... ولا بأس بنقله خلا محرابه.. (بجص وماء ذهب) لو (ماله) الحلال
وفي الشامية: (قوله لو بماله الحلال) قال تاج الشريعة: أما لو أنفق في ذلك مالا خبيثا ومالا سببه الخبيث والطيب فيكره لأن الله تعالى لا يقبل إلا الطيب، فيكره تلويث بيته بما لا يقبله
[رد المحتار، كتاب الصلاة، مطلب في بيان السنة والمستحب، ج ١، ص ٨٥٦، سعيد]

INTEFERING Mid TRANSACTIONS

Q: Is it permissible to extend an offer of purchase when another person has already engaged in purchasing the item? interfere
For example, Zaid is purchasing a property from Ahmad. Yusuf hears about it and offers to purchase the property.

Will the ruling be different in the following two scenarios:

1. Ahmad has already committed to selling the item to Zaid and thereafter, Yusuf makes an offer.
2. Ahmad and Zaid have only discussed the sale but there is no commitment, promise or steps towards the sale.

A : Consider the following Hadith:

نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنِ التَّلَقِّي، وَأَنْ يَبْتَاعَ الْمُهَاجِرُ لِلْأَعْرَابِيِّ، وَأَنْ تَشْتَرِطَ الْمَرْأَةُ طَلَاقَ أُخْتِهَا، وَأَنْ يَسْتَأْمَ الرَّجُلُ عَلَى سَوْمِ أَخِيهِ، وَنَهَى عَنِ النَّجْشِ، وَعَنِ التَّصْرِيفِ

Allah's Messenger forbade -

*“ (1) the meeting (to purchase) of a caravan (of goods) on the way,
(2) and that a residing person buys for a bedouin,
(3) and that a woman stipulates the divorce of the wife of the would-be husband,
(4) and that a man should make an offer (in a transaction) while the offer of his brother is pending (and nearly concluded). He also forbade artificially inflating prices, and that one withholds the milk in the udder of the animal so that he may deceive people on selling it.”*

In view of the above Hadith, the Fuqaha and Muhadditheen have ruled out the following:

- 1.If the purchaser and the seller concluded a deal, it is prohibited for a third person to interfere with the deal by making a counter offer.
- 2.If the purchaser and seller have not concluded the deal but there is an inclination in concluding the deal, then in this case as well, it is not permissible for a third party to interfere and make a counter offer.
- 3.However, if a purchaser and seller did not conclude the deal, nor was there any inclination or interest towards concluding the deal, then it will be permissible for a third party to make a counter offer. Accordingly, in query number one, Yusuf cannot make a counter offer. In query number two, there is no prohibition and Yusuf is at liberty to make a counter offer.

حَدَّثَنَا مُحَمَّدُ بْنُ عَزْرَةَ، حَدَّثَنَا شُعْبَةُ، عَنْ عَدِيِّ بْنِ ثَابِتٍ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ، قَالَ: «نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ الثَّقَلِي، وَأَنْ يَبْتَاعَ الْمُهَاجِرُ لِلْأَعْرَابِي، وَأَنْ تَشْتَرِطَ الْمَرْأَةُ طَلَاقَ أُخِيَّتِهَا، وَأَنْ يَسْتَأْمَرَ الرَّجُلُ عَلَى سَوْمِ أَخِيهِ، وَنَهَى عَنِ النَّجْشِ، وَعَنِ التَّضَرُّعِ» تَابِعَهُ مُعَاذُ، وَعَبْدُ الصَّمَدِ، عَنْ شُعْبَةَ، وَقَالَ عُثْمَرُ، وَعَبْدُ الرَّحْمَنِ: نَهَى، وَقَالَ آدَمُ: نَهَيْتَا، وَقَالَ الثُّرَيُّ: وَحَاجَّاجُ بْنُ مِهَالٍ: نَهَى [صحيح البخاري، كتاب الشروط، باب الشروط في الطلاق، ج ٣، ص ٢٩١، دار طوق النجاة]

(بَابُ لَا يَبِيعُ عَلَى بَيْعٍ أَخِيهِ وَلَا يَسُومُ عَلَى سَوْمِ أَخِيهِ حَتَّى يَأْذَنَ لَهُ أَوْ يَرْكَعَ)

أَي: هَذَا بَابٌ يَذْكُرُ فِيهِ: لَا يَبِيعُ عَلَى بَيْعِ أَخِيهِ، وَهُوَ أَنْ يَقُولَ فِي زَمَنِ الْخِيَارِ: افْخَسْ بِيَعَكَ وَأَنَا أَبِيعُكَ مِثْلَهُ، بِأَقَلِّ مِنْهُ، وَيَحْرِمُ أَيْضًا الشَّرَاءُ بِأَنْ يَقُولَ لِلْبَائِعِ: افْخَسْ وَأَنَا أَشْتَرِي بِأَكْثَرٍ مِنْهُ، قَوْلُهُ: (وَلَا يَسُومُ عَلَى سَوْمِ أَخِيهِ)، وَهُوَ السُّومُ عَلَى السُّومِ، وَهُوَ أَنْ يَتَّفِقَ صَاحِبُ السَّلْعَةِ وَالرَّاعِبُ فِيهَا عَلَى الْبَيْعِ وَفِي يَدَيْهِ، فَيَقُولُ آخَرُ لِصَاحِبِهَا: أَنَا أَشْتَرِيهَا بِأَكْثَرٍ، أَوْ لِلرَّاعِبِ: أَنَا أَبِيعُكَ خَيْرًا مِنْهَا بِأَرْخَصٍ، وَهَذَا حَرَامٌ بَعْدَ اسْتِقْرَارِ الثَّمَنِ، بِخِلَافِ مَا يَبِيعُ فِيمَنْ يَزِيدُ، فَإِنَّهُ قَبْلَ الْاسْتِقْرَارِ. وَقَوْلُهُ: (لَا يَبِيعُ)، نَفْيٌ، وَكَذَلِكَ: (لَا يَسُومُ) وَيُرْوَى: (لَا يَبِيعُ وَلَا يَسُمُّ)، بِصُورَةِ النَّهْيِ. قَوْلُهُ: (حَتَّى يَأْذَنَ لَهُ) أَي: حَتَّى يَأْذَنَ أَخُوهُ لِلْبَائِعِ بِذَلِكَ، أَوْ يَرْكَعَ أَخُوهُ اتِّفَاقَهُ مَعَ الْبَائِعِ، وَتَقْيِيدَهُ بِالْإِذْنِ أَوْ التَّرْكَعِ يَرْجِعُ إِلَى الْبَيْعِ وَالسُّومِ جَمِيعًا.

[عمدة القاري، كتاب الصوم، ج ١١، ص ٧٥٢، دار إحياء التراث]

قَالَ الْعُلَمَاءُ: الْبَيْعُ عَلَى الْبَيْعِ حَرَامٌ وَكَذَلِكَ الشَّرَاءُ عَلَى الشَّرَاءِ وَهُوَ أَنْ يَقُولَ لِمَنْ اشْتَرَى سَلْعَةً فِي زَمَنِ الْخِيَارِ افْخَسْ لِأَبِيعَكَ بِأَنْقَصَ أَوْ يَقُولَ لِلْبَائِعِ افْخَسْ لِأَشْتَرِي مِنْكَ بِأَزِيدَ وَهُوَ مُخْتَصٌّ عَلَيْهِ وَأَمَّا السُّومُ فَصُورَتُهُ أَنْ يَأْخُذَ شَيْئًا يَشْتَرِيهِ فَيَقُولُ لَهُ زَيْدٌ لِأَبِيعَكَ خَيْرًا مِنْهُ بِقَمِيهِ أَوْ مِثْلَهُ بِأَرْخَصَ أَوْ يَقُولُ لِلْمَالِكِ اسْتَرْدْ لَأَشْتَرِيهِ مِنْكَ بِأَكْثَرٍ وَمِثْلَهُ بَعْدَ اسْتِقْرَارِ الثَّمَنِ وَزَكُونُ أَحَدِهِمَا إِلَى الْآخَرِ

[فتح الباري لابن حجر، كتاب الصوم، ج ٤، ص ٣٥٢، دار المعرفة]

Ibid

This literally refers to a situation where the transaction has already been concluded. This has been prohibited by another Hadith. A third person either tells the seller to break the transaction so he may offer a higher price for the property or he tells the buyer to break the transaction so he may offer him a better price on the same property.

(وهي رسول الله صلى الله عليه وسلم عن النجاشي: وهو) أن يزيد في الثمن ولا يريد به الشراء ليرغب غيره (وعن السوم على سوم غيره) وعن الخطبة على خطبة غيره؛ لما في ذلك من الإيحاء والإصرار؛ وهذا إذا تراضى المتعاقدان على مبلغ المساومة، فإذا لم يركن أحدهما إلى الآخر - وهو بيع من يزيد فلا بأس به على ما تذكره؛ وما ذكرناه وهو محصل النهي في التكاثر. (هــدائية)

[اللباب في شرح الكتاب، كتاب البيوع، باب البيع الفاسد، ج ٣، ص ٢٧، دار البشائر الإسلامية]

م: (قال) ش: أي القدوري م: (وعن السوم على سوم غيره) ش: وقال المصنف - رَحِمَهُ اللَّهُ -: م: (قال - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ -): ش: أي قال النبي - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: م: «لا يستام الرجل على سوم أخيه ولا يخطب على خطبة أخيه» ش: هذا الحديث رواه البخاري، ومسلم من حديث أبي هريرة - رَضِيَ اللَّهُ عَنْهُ - «أن رسول الله - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نهى عن تلقي الركبان وأن يبيع حاضر لباد الحديث. وفي آخره: وأن يستام الرجل على سوم أخيه» ورواه محمد في كتاب الآثار: أخبرنا أبو حنيفة - رَحِمَهُ اللَّهُ - عن حماد عن إبراهيم عن أبي سعيد الخدري وأبي هريرة - رَضِيَ اللَّهُ عَنْهُ - عن النبي - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قال: «لا يستام الرجل على سوم أخيه ولا يخطب على خطبته» الحديث.

وفي "شرح الطحاوي": وصورته أن يتراضى الرجلان على السلعة ويتساومان عليها ويرضى البائع والمشتري بذلك ولم يعقد عقد المبيع حتى ساومه آخر على سومه واشتراه منه، فإنه يجوز في الحكم، ولكنه يكره هذا، إذا جنح قلب البائع إلى البيع من الأول بما طلب منه من الثمن، وأما إذا لم يجنح قلبه ولم يرض بذلك فلا بأس للثاني أن يشتريه لأن هذا بيع من يزيد.

[البنية شرح الهداية، كتاب البيوع، باب البيع الفاسد، ج ٨، ص ١١٢، دار الكتب العلمية]

(و) كَرِهَ (السُّومُ) عَلَى سَوْمِ غَيْرِهِ بَعْدَ رِضَاهُمَا بِثَمَنِ) لِقَوْلِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «لَا يَسْتَأْمِرُ الرَّجُلُ عَلَى سَوْمِ أَخِيهِ وَلَا يَخْطُبُ عَلَى خُطْبَةِ أَخِيهِ» فَإِنَّهُ نَهَى بِصِيغَةِ النَّهْيِ وَهُوَ أَكْثَرُ مَا إِذَا سَاوَمَهُ بَيْعٌ وَلَمْ يَرْكَعْ أَحَدُهُمَا إِلَى صَاحِبِهِ فَلَا بَأْسَ بِالْغَيْرِ أَنْ يَسَاوِمَهُ وَيَشْتَرِيهِ فَإِنَّهُ يَبِيعُ عَنْ يَزِيدٍ وَلِذَا قَالَ (بِخِلَافِ بَيْعٍ مَنِ يَزِيدُ) فَإِنَّهُ جَائِزٌ يُؤَوِّدُ الْآخَرَ وَهُوَ مَحْمَلُ النَّهْيِ فِي الْخُطْبَةِ أَيْضًا.

[درر الحکام شرح غرر الأحکام، باب البيع الباطل، البيع المكروه وحكمه، ج ٢، ص ٧٧١، دار إحياء الكتب العربية]

(قَوْلُهُ وَالسُّومُ عَلَى سَوْمِ غَيْرِهِ) أَي: كَرِهَ (أَيْضًا) وَكَذَا الْبَيْعُ عَلَى بَيْعٍ غَيْرِهِ. فَفِي الضَّحِيحَيْنِ «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ ثَلَاثِي الرُّكْبَانِ» إِلَى أَنْ قَالَ «وَأَنْ يَسْتَأْمَرَ الرَّجُلُ عَلَى سَوْمِ أَخِيهِ» وَفِي الضَّحِيحَيْنِ أَيْضًا «لَا يَبِيعُ الرَّجُلُ عَلَى بَيْعِ أَخِيهِ، وَلَا يَخْطُبُ عَلَى خُطْبَةِ أَخِيهِ إِلَّا أَنْ يَأْذَنَ لَهُ» وَصُورَةُ السُّومِ أَنْ يَتَرَاثَبَا بِثَمَنِ وَيَبِيعَ الرَّكُوبُ فِيهِ بِحَقٍّ، آخَرُ فَيَذْفَقُ لِلْمَالِكِ أَكْثَرُ أَوْ مِثْلَهُ. وَصُورَةُ الْبَيْعِ أَنْ يَتَرَاثَبَا عَلَى ثَمَنِ سَلْعَةٍ فَيَقُولَ آخَرُ أَنَا أَبِيعُكَ مِثْلَهَا بِأَنْقَصَ مِنْ هَذَا الثَّمَنِ أَفَادَهُ فِي الْفَتْحِ قَالَ الْخَيْرُ الرَّهْمِيُّ: وَيَذْفُلُ فِي السُّومِ الْإِجَارَةَ، إِذْ هِيَ بَيْعُ الْمَتَاعِ

PURCHASING GOODS DURING THE FESTIVE SEASON

Q: Is it ok to purchase home goods during Christmas sale or any other “religious” event sale like Halloween. I mean to take advantage of the sale that occur for some other religion’s events, could be home goods or personal shopping for clothes. Etc.

A: With regards to your specific question, the sale of home items during the religious festivities of other religions is permissible since such items are not directly associated to such beliefs and ideologies.

However, we as Muslims, we are sensitive to our belief of pure tawhīd (Oneness of Allah Ta‘ālā). This requires us to also completely disassociate ourselves from all the religious events and practices of other religions. We do not compromise in our Aqeedah and values. We tolerate other religions but do not revere or respect other religions. The sale of items which have religious insignia attached for marketing purposes should not be viewed independently.

One should consider the underlying philosophy and ideology behind the sale of such items which are often promoted with the symbols and signs depicting such festivities and events. As Muslims, we disassociate ourselves from such false beliefs and values.

1والإعطاء باسم النُّزُور والمِهْرَجَان لا يجوزُ أَي الهَدَايَا بِاسْمِ هَذَيْنِ التَّوَعْنِ حَرَامٌ بَلْ كُفِّرُ وَقَالَ أَبُو حَفْصٍ الْكَبِيرُ - رَحِمَهُ اللَّهُ - لَوْ أَنَّ رَجُلًا عَبَدَ اللَّهَ تَعَالَى خَمْسِينَ سَنَةً ثُمَّ جَاءَ يَوْمُ النُّزُورِ وَأَهْدَى إِلَى بَعْضِ الْمُشْرِكِينَ تَبَضَّةً يُرِيدُ تَعْظِيمَ ذَلِكَ الْيَوْمِ فَقَدْ كَفَرَ وَحَبِطَ عَمَلُهُ وَقَالَ صَاحِبُ الْجَامِعِ الْأَصْغَرِ إِذَا أَهْدَى يَوْمَ النُّزُورِ إِلَى مُسْلِمٍ آخَرَ وَتَمَّ يُرِيدُ بِهِ تَعْظِيمَ الْيَوْمِ وَلَكِنْ عَلَى مَا اعْتَادَهُ بَعْضُ النَّاسِ لَا يَكْفُرُ وَلَكِنْ يُنْتَبِهُ لَهُ أَنْ لَا يَفْعَلَ ذَلِكَ فِي ذَلِكَ الْيَوْمِ خَاصَّةً وَيَفْعَلَهُ قَبْلَهُ أَوْ بَعْدَهُ لِكَيْ لَا يَكُونَ تَشْبِيهًا بِأُولَئِكَ الْقَوْمِ، وَقَدْ قَالَ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مَنْ تَشَبَّهَ بِقَوْمٍ فَهُوَ مِنْهُمْ» وَقَالَ فِي الْجَامِعِ الْأَصْغَرِ رَجُلٌ اشْتَرَى يَوْمَ النُّزُورِ شَيْئًا يَشْتَرِيهِ الْكَفَرَةُ مِنْهُ وَهُوَ لَمْ يَكُنْ يَشْتَرِيهِ قَبْلَ ذَلِكَ إِنْ أَرَادَ بِهِ تَعْظِيمَ ذَلِكَ الْيَوْمِ كَمَا تَعْظُمُهُ الْمُشْرِكُونَ كَفَرَ، وَإِنْ أَرَادَ الْأَكْلَ وَالشُّرْبَ وَالتَّنَعُّمَ لَا يَكْفُرُ. (البحر الرائق شرح كنز الدقائق، ج8ص555).

CHARGING FOR LATE PAYMENT

Q : I own a property and I rent or lease it out. Can I charge a penalty for late payments. And can I charge a penalty if it is in the lease agreement?

A : To charge late fees for a due payment is not permissible as it is tantamount to Riba (interest). An alternative is to inflate the rent by 10% and if anyone pays timeously, they will be offered a 10% discount.

الذين يأكلون الربا لا يقومون إلا كما يقوم الذي يتخبطه الشيطان من المس ذلك بأنهم قالوا إنما البيع مثل الربا وأحل الله البيع وحرم الربا.
those who take ribā (usury or interest) will not stand but as stands the one whom the demon has driven crazy by his touch. That is because they have said: "Sale is but like ribā", while Allah has permitted sale, and prohibited ribā. (Verse: 2:275)

يا أيها الذين آمنوا اتقوا الله واذروا ما بقي من الربا إن كنتم مؤمنين. فإن لم تفعلوا فأذنوا بحرب من الله ورسوله وإن تبتم فلكم رؤوس أموالكم لا تظلمون ولا تظلمون.
O you who believe, fear Allah and give up what still remains of ribā, if you are believers. But if you do not (give it up), then listen to the declaration of war from Allah and His Messenger. However, If you repent, yours is your principal. Neither wrong, nor be wronged. (Verse: 2:278,279)

MURABAHA SALE

Q : I want to buy a car using Murabaha from an Islamic bank. Bank will buy the car from my friend (original owner) and pay him the price. The car will be under my ownership and my instalments with bank will be for 2 years. Can I sell the car after few days (may be for more or less price) in open market to get cash (not to previous owner)?

My instalment with bank will continue as it is and i will keep on pay-

ing the instalments on time. Basically I want to have cash using real product in my ownership. Please advice if this is Halal considering that bank meets Murabaha as per Shariah.

A : In principle, once you purchased a car on credit, you are the owner of the car. You are at liberty to sell the car and continue the instalments with your creditor. However, the real issue is would the Bank permit to sell the car and is the car and or its logbook (legal documents) placed as a collateral for the credit instalments.

بدائع الصنائع (5/ 081)

وَمِنْهَا الْقَبْضُ فِي بَيْعِ الْمُشْتَرَى الْمَقْبُولِ فَلَا يَصِحُّ بَيْعُهُ قَبْلَ الْقَبْضِ لِمَا رُوِيَ أَنَّ النَّبِيَّ عَلَيْهِ الصَّلَاةُ ((وَسَلَّمَ)) وَالسَّلَامُ نَهَى عَنْ بَيْعِ مَا لَمْ يُقْبَضْ وَالنَّهْيُ يُوجِبُ فَسَادَ الْمُنْهَيِّ وَلِأَنَّهُ بَيْعٌ فِيهِ غَرَرٌ الْإِنْفِاسُخَ يَهْلِكُ الْمَقْفُودُ عَلَيْهِ

SARB SHARES

Q : Is it permissible to purchase shares directly from the South African Reserve Bank (SARB)?

A : It is not permissible to purchase shares from SARB.

The Central Bank generates income from the following sources:

1. Interest earned on advances made to Government and on holdings of Treasury bills and Registered Stocks;
 2. Interest earned on foreign currency securities and deposits;
 3. Commissions received on foreign exchange transactions; and
 4. Royalties and commissions earned from numismatic coin sales.
- “How does the Central Bank make money? - The Central Bank of The Bahamas”, accessed 08 February 2014. <http://www.centralbankbahamas.com/faqs.php?cat=18&id=10139>.

200% PROFIT

Q: If I buy an item for R99, can I resell it for R300 thus making 200 % profit? What is the allowed percentage of profit to be made on a product?

A: There are no restrictions in Shariah in earning profit. A seller may earn profit by selling his item at any price as long as the buyer agrees. However, when marking a price, the seller should consider the well-being of the buyer and should not be driven by greed only.

JOB AT A TV STATION

Q: I'm looking for a job at 2 different TV stations but i want to confirm if both are halal and which you would advise is best.

1. The first is a news broadcaster, they mostly report on local and international news and other special programs every once in a while. The problem i have with this station is that among their lineup of shows is also church services which they broadcast once in a while.
2. The second is a digital satellite TV provider, they provide a decoder which hosts several hundred different channels and TV stations, they also have Iqraa and the ISLAM channel which are all Islamic, however they also 3 other channels which are centered on Christianity as well as some music channels, they may once in a while show movies which may contain sexual content at night but they take care with those to warn people that such movies may contain such scenes. In both scenarios i am looking for a job in their computer departments, not sure what my job will entail there if i do get it, but it will have something to with signal broadcasting to people's TVs or repairs of some sort. Is this permissible?

Your sensitivity to earning a halal income is commendable. Earning a halal income invokes the mercy of Allah Ta'āla and barakah in one's wealth. Generally speaking, television programs typically contain the following issues:

1. Displaying adverts that expose underdressed women and promote items such as cigarettes and alcohol.
2. Music in the background.
3. Immoral content depicting people in varying situations that become worse depending on the intended audience of a specific movie or show.

In light of the above, job number two contains all three elements and job number one contains the first two elements. In any case, without having the proper details and job description of the work you intend to pursue, we are unable to provide a concrete answer. Details such as "something to [do] with signal broadcasting to people's TVs or repairs of some sort" are not sufficient enough to provide us direction in reaching a conclusion. If you require information regarding a more specific type of work, you may forward us the details and we will answer you. However, in general, a Muslim is averse to immorality which is a common content in all T.V. stations. A computer department of a T.V. station is generally linked (directly or indirectly) to broadcasting. As such, there is a strong possibility of being involved in assisting in sin and promoting immorality. Allāh Ta'ālā says in the Holy Qur'ān:

وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ

And do not assist one another in sin and aggression. And fear Allah; indeed, Allah is severe in penalty. [Al-Qur'ān; 5:2]

We advise you to search for an alternate source of income. Allāh the Almighty says in the Holy Qur'an

وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مَخْرَجًا، وَيَرْزُقْهُ مِنْ حَيْثُ لَا يَحْتَسِبُ وَمَنْ يَتَوَكَّلْ عَلَى اللَّهِ فَهُوَ حَسْبُهُ

And whoever fears Allah, for him Allah brings forth a way out, and gives him provision (of his needs) from where he does not even imagine. And whoever places his trust in Allah, He is sufficient for him. [Al-Qur'an, Al-Talāq, 2-3]

Also recite the following du`ā':

اللَّهُمَّ اكْفِنِي بِحَلَالِكَ عَنْ حَرَامِكَ، وَأَغْنِنِي بِفَضْلِكَ عَمَّنْ سِوَاكَ

Translation: O Allah, suffice me with Your lawful against Your prohibited, and make me independent of all those besides You.

وَأَمَّا الْمَرْأَةُ الْخُرَّةُ الَّتِي لَا يَكُاحُ بَيْنَهَا وَلَا خُرْمَةٌ مِنْ يَحِلُّ لَهُ نِكَاحُهَا فَلَيْسَ يَتَنَبَّهِي لَهُ أَنْ يَنْظُرَ إِلَى فَيْءٍ مِنْهَا مَكْشُوفًا إِلَّا الْوَجْهَ وَالْكَفَّ (الأصل للإمام محمد بن الحسن الشيباني، ج ٢، ص ٥٢٢، دار ابن حزم)

وَأَمَّا النُّوْغُ السَّادِسُ وَهُوَ الْأَجْنَبِيَّاتُ الْخُرَائِدُ فَلَا يَحِلُّ النَّظَرُ لِلْأَجْنَبِيِّ مِنَ الْأَجْنَبِيَّةِ الْخُرَّةِ إِلَى سَائِرِ بَدَنِهَا إِلَّا الْوَجْهَ وَالْكَفَّينِ لِقَوْلِهِ تَبَارَكَ وَتَعَالَى (قُلْ لِلْمُؤْمِنِينَ يَفْضُلُوا مِنْ أَنْصَارِهِمْ) إِلَّا أَنَّ النَّظَرَ إِلَى مَوَاضِعِ الرِّيَّةِ الظَّاهِرَةِ وَهِيَ الْوَجْهَ وَالْكَفَّانِ (بدائع الصنائع، ج ٦، ص ٢٩٤، دار الكتب العلمية)

(ولا ينظر من اشتبه إلى وجهها إلا الحاكم والشاهد وينظر الطبيب إلى موضع مرضها) والأصل أنه لا يجوز أن ينظر إلى وجه الأجنبية بشهوة لما روينا إلا للضرورة (البحر الرائق، ج ٨، ص ٢٩١، إيج ايم سعيد كميني)

(والشراب) لغة: كُلُّ مَائِعٍ يُشْرَبُ وَأَصْلًا مَا (مَا يُسَكَّرُ وَالْمُخَرَّمُ مِنْهَا أَرِيَّةٌ) أَوْ

ZAKAT ON GOLD

Q: I was given a large amount of gold as part of my Mahr in which my ex husband stole from me whilst I was married to him. He then pawned it to a shop gambling all the money away, this gold was then bought back from the shop by my ex husbands sister and it now is in her possession. I want to know:

- 1) Does the gold now belong to her as she has bought it back?
- 2) As it was a large amount of gold, would I have to pay zakaat on it, as it was my gold even though it is not in my possession? Also, if I have a small amount of gold in my possession now, which equals to roughly 7grams in weight, am I eligible to pay zakaat on it? Please can you briefly explain what women have to give zakaat on i.e. wealth, clothes, etc as I am not sure. and finally, if my ex husband has agreed to pay a Mahr during Nikah including gold and money, of which he pays none, and has now divorced me, how does that stand in this Dunya/Akhirat?

A : Based upon the information given in the query, the rulings are as follows:

1. If the gold was given to you by your husband as Mahr and you took possession of it, you are the rightful owner of the gold. You may either claim the gold from your ex-husband's sister upon which she will claim the value of the gold from her brother or you may claim the value of the gold from your ex-husband directly.
2. If you retrieve the gold from your ex-husband's sister or the value of the gold from your ex-husband, then you will have to pay Zakaat for all the previous years. According to our understanding, it was pre-agreed that Mahr will be payable to you in both cash and gold. Accordingly, your husband has already given you gold which was then "stolen" by him from you. If this understanding is correct, then the amount of gold that has already been given to you was Mahr and you may claim the amount of gold as stolen goods and not as part of the Mahr. In any case, you are entitled to the cash amount still payable to you as Mahr.

Calculating Zakaat:

Zakaat will become compulsory on a sane and mature Muslim when his / her wealth exceeds the Nisāb and this amount of wealth is maintained for the duration of one entire lunar year. The Nisāb is 20 Mithqals (87.479 g) for gold and 200 Dirhams (612.35 g) for silver. Any currency equal to the amount of any of these Nisābs will also render Zakaat binding. For example, if the price of silver is quoted at R4.40 per gram then the Nisāb will equal approximately R2, 702. If one's wealth decreases below the Nisāb during the year but before the expiry of the year, it reaches the Nisāb, Zakaat will be binding contrary to the case of the wealth not rebounding to amount of Nisāb upon the expiry of the year.

However, if one loses his entire wealth, a new lunar cycle will begin after reaching the Nisāb for the second time. All debts and liabilities will be deducted from his wealth before calculating his estate. Only that particular year's liabilities will be deducted from long-term debts such as car / home financing. Loans given and other receivables into one's estate will be accounted for even if the person is not paid by his debtor for several years.

Any gold or silver items such as jewelry, ornaments etc will also form part of Zakatable assets. If the percentage of gold or silver in the item is more than the metal alloy with which it is amalgamated the entire item will be considered as gold or silver. If the percentage of alloy is greater, if there is enough gold or silver where it is possible for it to be extracted, then Zakaat will be compulsory only on the value of the gold or silver therein and not on the entire item if the Nisāb is reached. Similarly, any items purchased for trade will be subject to Zakaat and must be accounted for in the calculation.

A person should add his / her cash savings, values of gold and/or silver, value of the merchandise of trade and any receivables from debts

etc. Thereafter, he / she should deduct the amount of debts owed to others. If the value of the net total equals the Nisāb of gold or silver, he / she will have to pay 2.5% of the amount in Zakaat.

(قوله: اشتري من غاصب عبداً) لو قال من فضولي لكان أولى؛ لأنه إذا لم يسلم المبيع لم يكن غاصباً مع أن الحكم كذلك، وتعلله إما ذكره لأجل قوله أو باعه فإن بيع العبد قبل قبضه فاسد إقادة في البحر؛ وضورة المسألة زيدت باع عبد رجل بلا إذنه من عمرو فأعتق عمرو العبد أو باعه من بكر فأجاز المالك بيع زيد أو ضمنه أو ضمن عمرو المشتري وهو المغيث نفذ عتق عمرو إن كان أعتقه، ولما إن كان باعه فلا ينفذ البيع. (قوله: فأجاز المالك بيع الغاصب) قيد به؛ لأنه لو أجاز بيع المشتري منه وهو بيع عمرو يكره جاز. قال في جامع الفضولين زامراً للمبشوط: لو باعه المشتري من غاصب ثم وثم حتى تداولته الأيدي فأجاز ماله عقداً من العقود جاز ذلك العقد خاصة يتوقف كلها على الإجازة، فإذا أجاز عقداً منها جاز ذلك خاصة.

ا هـ.

وبه ظهر أن بيع المشتري من الغاصب موقوف.

وأما ما في البحر والنهر عن النهاية والمغراج من أنه باطل فهو مخالف لما في جامع الفضولين وغيره من الكتب كما حرره الخیر الرملي في حاشية البحر. فتاوى الشامي ج 5 - ص 611 - ايج ايم سعيد

(ومعصوب لا يثبت عليه) قلوا له يثبت تجب لهما متى إلا في غضب السائمة فلا تجب، وإن كان الغاصب مفرراً كما في الخائبة

الشرح

(قوله: قلوا له يثبت تجب لهما متى) أي تجب الزكاة بعد قبضه من الغاصب لهما متى من السنين قال ح: ويثبتني أن يجري هنا ما يأتي مخصصاً عن محمد من أنه لا زكاة فيه لأن يثبت قد لا تقبل فيه.

ا هـ.

قال ط: والظاهر على القول بالوجوب أن حكمهم حكم الدين القوي ا هـ. أي فتجب عند قبض أو زرعين درهمهما

فتاوى الشامي ج 2 - ص 662 - ايج ايم سعيد

(قوله: وهو البيع) أي بيع المشتري من الغاصب أما بيع الغاصب فإنه ينفذ بإجازة المالك وكذا بالتضمن.

وفي جامع الفضولين: وإما يجوز لو تقدم سبب ملكه على بيعه، حتى إن غاصبه لو باعه ثم ضمنه ماله جاز بيعه، ولو شراه غاصبه من ماله أو وجهه منه أو ورثه لم ينفذ بيعه قبل ذلك، إذا الغضب سبب الملك عند الضمان، وليس بسبب البيع أو الهبة أو الإرث فيقي السبب وهو البيع والهبة والإرث متأخراً عن البيع، ويجوز بيعه لو ضمنه قيمته يوم غصبه لا يوم بيعه. فتاوى الشامي ج 5 - ص 611 - ايج ايم سعيد

أول كتاب الزكاة عند قول الكثر وملك نصاب خوئي، ومثله في الشرنبلالية، وذكره في شرح الوهبانية بخناً؛ وفي الفضل العاشر من التتارخانية عن فتاوى الخجة: من ملك أموالاً غير طيبة أو غصب أموالاً وخلطها ملكها بالخلط وتصير صامناً، وإن لم يكن له سواها نصاب فلا زكاة عليه فيها وإن بلغت نصاباً؛ لأنه مدنيون ومال المدنيون لا يتعقد سبباً لوجوب الزكاة عندنا.

ا هـ.

فأما بقوله وإن لم يكن له سواها نصاب إلخ أن وجوب الزكاة مقيد بما إذا كان له نصاب سواها، وبه يندفع ما استشكله في البحر من أنه وإن ملكه بالخلط فهو مشغول بالدين فينبغي أن لا تجب الزكاة.

ا هـ.

لكن لا يخفى أن الزكاة حينئذ إما تجب فيما زاد عليها لا فيها.

لا يقال: ويكره أن يكون له مال سواها مما لا زكاة فيه كدور الشئ وتب اليدلية مما يتلغ مقداراً أو يزيد فتجب الزكاة فيها من غير أن يكون له نصاب آخر سواها؛ لأننا نقول: إنه لما خلطها ملكها وصار مثلها ديناً في ذمته لا عتقها، وقدمنا أن الدين يضرب أولاً إلى مال الزكاة دون غيره، حتى لو تزوج على خادم بغير عتبه وله مالنا درهم وخادم صرف دين المهر إلى المائتين دون الخادم: أي قلوا حال الحول على المائتين لا زكاة عليه لإشتغالها بالدين مع وجود ما يفي به من جنسه وهو الخادم، وهنا كذلك ما لم يملك نصاباً زاداً نعم تظهر الثمرة فيما إذا أبرأه المعصوب منه كما نقله في البحر عن المبتغى بالغين المعجمة وقال وهو قيد حسن يجب حفظه.

ا هـ.

أو إذا صالح غريمه على غفر مثلاً فينبغي ما غصبه سائلاً عن الدين فتجب زكاته. فتاوى الشامي ج 2 - ص 192 - ايج ايم سعيد

ADOPTING HUSBANDS SURNAME

Q: Can you please see the following article:
<http://www.farhathashmi.com/articles-section/women-and-family/taking-the-husbands-name/>

A major issue has come up in my family whereby my sister is stating that changing the name of the woman after marriage is *Haram*. Her opinion has come up after reading the above article. I need to know whether the arguments presented in the above article are valid or baseless. I also need to know the *shariah* ruling regarding name changing. Also please let me know what does *shariah* say if a husband commands a woman to change her name and she denies to do so after getting married.

A: The misconception of the impermissibility in adopting the husband's last name stems from misunderstanding the purport of the Qur'anic order to attribute one's lineage only to his/her father. In order to dispel this misunderstanding, a thorough understanding of the background of the *Āyah* is necessary. When Nabī Sallallāhu 'Alaihi Wa Sallam adopted Zaid bin Ḥārithah Radillāhu 'Anhu, he (Sallallāhu 'Alaihi Wa Sallam) took him to the Ka'bah and proclaimed, "O People! Bear witness that Zaid is my son. I shall inherit from him and he shall inherit from me." This practice was common amongst the Arabs. They treated their adopted children as their own; in lineage, inheritance, marriage, etc.

As such, Zaid Radiallāhu 'Anhu would be referred to as Zaid bin Muḥammad. However, when the following *Āyah* was revealed, the Saḥābah would call him Zaid bin Ḥārithah.

وَمَا جَعَلَ أَدْعِيَاءَكُمْ أَبْنَاءَكُمْ...ادْعُوهُمْ لِآبَائِهِمْ هُوَ أَقْسَطُ عِنْدَ اللَّهِ (الأحزاب ٥،٤)

“And He (Allāh) has not made your adopted sons your real sons... Attribute them (adopted children) to their father. This is more just according to Allāh” (Al Ahzāb 4,5)

Hence, the prohibition which was revealed was in the context of the practice of the Arab society i.e. considering the adopted child to be the adoptive father's biological child by attributing his lineage to that of the adoptive father. Ultimately, the verse prohibits rejecting one's lineage or ascribing it to another. This is corroborated by a Hadīth in Saḥīḥ Al Bukhārī:

إن من أعظم الفري أن يدعي الرجل إلى غير أبيه (صحيح البخاري ج-٤ ص-١٨١، دار المنهاج)

“One of the biggest lies is that a person attributes his lineage to other than his biological father”

Thus it is clear that false genealogical attribution is prohibited in Qurān and Sunnah, and not any other type of identification.

The impermissibility for a woman to adopt her husband's last name as claimed in the article under discussion is based on the following arguments:

1. The Qurān and Sunnah do not “require” or command women to adopt the husband's last name.
2. The wives of Nabī Sallallāhu ‘Alaihi Wa Sallam did not adopt his name. They kept the names of their fathers, though they were Kuffār.
3. The last name is an indication of one's father, and represents his/her lineage.

4. Calling a person by his father's name is more appropriate for knowing who is who and telling people apart.
5. There are rulings attached to the woman being named after her father, which have to do with her inheritance, spending, and who is her Mahram, etc. Taking her husband's last name overlooks all that.
6. We will be called by our father's name in the Hereafter as well. The writer claims impermissibility of adopting the husband's last name. However, none of the proofs reflect this claim. Whilst we agree that a woman is not "required" to alter her maiden name, the issue is not about whether or not maiden names are a requirement of Shari'ah. The issue at hand is about whether altering maiden names is permissible or not. Proving non-requirement is not tantamount to proving impermissibility.

A simple example to illustrate this is that wearing new clothes to perform Salāh is not a requirement in Sharī'ah, although it is permissible. Similarly, proving that maiden names were not altered at the time of Nabī Sallallāhu 'Alaihi Wa Sallam does not prove impermissibility. For example, cars were not used as a mode of transport at the time of Nabī Sallallāhu 'Alaihi Wa Sallam. That does not mean we are not permitted to use cars today. The writer also claims that a last name is an indication of one's father and represents one's lineage. However, a brief analysis of a worldwide pattern even amongst Muslims will reveal that a last name is only a family name, not the father's name. Last names represent individuals associated to a family. In the case of a woman adopting her husband's last name, it simply indicates that she is married into such and such family.

How does adopting the husband's last name "overlook" the laws of inheritance, spending, and Mahramiyyah? Perhaps the writer feels

that a woman will not be able to inherit from her siblings, father, etc. because she will have no proof of being from the family. If this argument is to be accepted i.e. the husband's last name proves to be an obstacle in claiming inheritance from one's genealogical family, then one's family name equally stands as an obstacle in claiming inheritance from one's husband, children, mother, etc. The same goes for spending and Mahramiyyah.

There is no correlation between Allāh Ta'ālā calling us by our father's name on the Day of Judgment and the impermissibility of adopting the husband's last name. Being called by our father's name on the Day of Judgment does not indicate impermissibility of altering one's maiden name in this world. The procedure adopted in the hereafter does not become law for worldly procedure.

The practice of our pious predecessors illustrates that adopting methods of identification other than attribution to one's father is not inconsistent with the Shar'ī command of attributing one's lineage only to his/her father. Many Saḥābah, Tābi'een, and 'Ulamā were even "attributed" to their mothers/grandmothers. For example,

1. 'Abdullāh ibn Umme Maktūm (one of the muezzins of Rasūlullāh Sallallāhu 'Alaihi Wa Sallam),
2. Sakhr ibn Al 'Ailah,
3. Ibn Al Lutbiyyah (Radiallāhu 'Anhum),
4. Muḥammad ibn Al Ḥanafiyyah (son of 'Alī Radiallāhu 'Anhu),
5. Ibn Mājah (Sāhib Al Sunan)
6. Ibn Taimiyyah (Aḥmad ibn 'Abd Al Halim), etc.

Why didn't these luminaries attribute themselves to their fathers only? Were they not aware of the Qurānic order?

It is clear that the command in reference is the prohibition to deny a biological attribution and not to prohibit every other form of attri-

bution. It is best that the husband's last name is adopted with mutual consent. If there is a need for the wife to adopt her husband's last name, it is up to the husband to convince her to do so.

Taken from Usdul Ghābah under the biography of Zaid bin Ĥārithah
ibid

According to one opinion.

و هذا كله مأخوذ من الكتاب معجم الذين نسبوا إلى أمهاتهم لقواد صالح

و في المنح عن البرازية و قال الرندويستي حق العالم على الجاهل و حق الأستاذ على التلميذ واحد على السوا و هو أن لا يفتح الكلام قبله و لا يجلس مكانه و إن غاب و لا يرد عليه كلامه و لا يتقدم عليه في مشيه و حق الزوج على الزوجة أكثر من هذا وهو أن تطيعه في كل مباح (الشامي ج ٦ ص ٦٥٧، سعيد) و هكذا في البحر الرائق ج ٣ ص ١٢٢، سعيد و النهر الفقائى ج ٢ ص ٧٩٢، قديمي فتاوى حقانية ج ٤ ص ٣٣٤، دار العلوم حقانية امداد الفتاوى ج ٢ ص ٦٨١، مكتبة دار العلوم كراتشي

ETIQUETTES OF NIKĀH

Q: I humbly request your response on the following:

a) Is it substantiated in the Hadeeth or termed Sunnah to sprinkle water on the newly wedded wife together with reciting a specific duaa, which is the hadith wherein this is proven?

b) If so, who should carry out this practise?

c) What is the duaa to be recited?

d) What is the sunnah procedure for leaving off the bride to her husbands home? Should the parents of the bride drop her off to her new home? Source/reference?

e) Is it correct for newlyweds after their nikaah to be chauffeur driven by friends/family? Is this not unislaamic & western trends?

f) What is the sunnah practice to be adopted upon the newly wedded husband & wife meeting for the first time after their nikaah? Is their a practise where the husband should recite a certain duaa placing his hand on his wife's forelock and should a specific drink be shared by both. Are there any other practices to be carried out as well according to the sunnah?

A : 1. After the marriage and before saying farewell to one's daughter, the following Du'a should be recited and blown in a cup of water,

اللهم إني أعيذها بك وذريتها من الشيطان الرجيم

O Allah, I place her and her progeny in your protection from Shaytan the accursed.

The water should then be sprinkled on her chest, face and back. The same should be done with the son-in-law with another cup of water. However, in the case of the son-in-law, he should say O'eedhuhu and Dhurriyatuhu. This practice is established from the following Hadith narrated in Sahih Ibn Hibban,

وَدَخَلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْبَيْتَ، فَقَالَ لِفَاطِمَةَ: "إِيْتِينِي مَاءً" فَقَامَتْ إِلَى قَعْبٍ فِي الْبَيْتِ، فَأَتَتْ فِيهِ مَاءً، فَأَخَذَهُ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَمَجَّ فِيهِ، ثُمَّ قَالَ لَهَا: "تَقَدَّمِي" فَتَقَدَّمَتْ، فَنَضَحَ بَيْنَ تَدْيِيهَا وَعَلَى رَأْسِهَا، وَقَالَ: "اللَّهُمَّ إِنِّي أَعِيذُهَا بِكَ وَذُرِّيَّتَهَا مِنَ الشَّيْطَانِ الرَّجِيمِ" ثُمَّ قَالَ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَهَا: "أَذْبِرِي"، فَأَذْبَرَتْ، فَصَبَّ بَيْنَ كَتِفَيْهَا، وَقَالَ: "اللَّهُمَّ إِنِّي أَعِيذُهَا بِكَ وَذُرِّيَّتَهَا مِنَ الشَّيْطَانِ الرَّجِيمِ" ثُمَّ قَالَ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "إِيْتُونِي مَاءً"، قَالَ عَلِيٌّ: فَعَلِمْتُ الَّذِي يُرِيدُ، فَقُمْتُ، فَمَلَأْتُ الْقَعْبَ مَاءً، وَأَتَيْتُهُ بِهِ، فَأَخَذَهُ وَمَجَّ فِيهِ، ثُمَّ قَالَ لِي: "تَقَدَّمِي"، فَصَبَّ عَلَى رَأْسِي وَبَيْنَ تَدْيِي، ثُمَّ قَالَ: "اللَّهُمَّ إِنِّي أَعِيذُ بِكَ وَذُرِّيَّتَهُ مِنَ الشَّيْطَانِ الرَّجِيمِ" ثُمَّ قَالَ: "أَذْبِرْ" فَأَذْبَرْتُ، فَصَبَّهُ بَيْنَ كَتِفَيَّ، وَقَالَ "اللَّهُمَّ إِنِّي أَعِيذُ بِكَ وَذُرِّيَّتَهُ مِنَ الشَّيْطَانِ الرَّجِيمِ"

(After the marriage of ‘Ali and Fātimah Radhiyallahu ‘Anhuma) Rasulullah (Sallallahu Alaihi Wa Sallam) entered their home and asked Fatimah (Radhiyallahu ‘Anha) to bring some water. Fatimah (Radhiyallahu ‘Anha) stood up and filled a bowl with water and brought it to Rasulullah (Sallallahu Alaihi Wa Sallam). Rasulullah (Sallallahu Alaihi Wa Sallam) took a sip of the water and returned it to the bowl. Rasulullah (Sallallahu Alaihi Wa Sallam) asked Fātimah (Radhiyallahu ‘Anha) to come near. When she came near, he sprinkled some of the water on her chest area and face and recited the following Du‘ā,

اللهم إني أعيذها بك وذريتها من الشيطان الرجيم

O Allah, I place her and her progeny in your protection from Shaytan the accursed.

He then told her to turn around and sprinkled water on her back and repeated the same Du‘ā. Thereafter, he told ‘Alī (Radhiyallahu ‘Anhu) to come near. When ‘Ali came near, Rasulullah (Sallallahu Alaihi Wa Sallam) sprinkled some of the water on his chest area and face and recited the following Du‘ā,

اللهم إني أعيذه بك وذريته من الشيطان الرجيم

O Allah, I place him and his progeny in your protection from Shaytan the accursed.

He then told him to turn around and sprinkled water on his back and repeated the same Du‘ā.

2. After her Nikāh, ‘Aishah (Radhiyallāhu ‘Anha) was accompanied to the house of Rasulullah (Sallallahu Alaihi Wa Sallam) by her mother Ummu Rūmān and some women from Ansār. Moreover, Fātimah (Radhiyallāhu ‘Anha) was accompanied by Ummu Aiman to the

house of 'Alī after their Nikāh. It is understood from this that women used to accompany the bride to the house of the groom.

3. On the first night of marriage, when in seclusion with the wife, hold the forelocks (hair of the forehead) of her head and recite the following Du'a,

اَللّٰهُمَّ اِنِّیْ اَسْأَلُكَ خَيْرَهَا وَخَيْرَ مَا جَبَلْتَهَا عَلَیْهِ وَاَعُوْذُ بِكَ مِنْ شَرِّهَا وَمِنْ شَرِّ مَا جَبَلْتَهَا عَلَیْهِ

O Allah I ask you for her good and the good you have created her with and I seek your protection from her evil and the evil you have created her with.

Thereafter, make Du'a for Barakah.

Whenever intending to go to the wife (to satisfy oneself), recite the following Du'aa:

بِسْمِ اللّٰهِ اَللّٰهُمَّ جَنِّبْنَا الشَّيْطَانَ وَجَنِّبِ الشَّيْطَانَ مَا رَزَقْتَنَا

Bismillah Allahumma Jannibnaash Shaytaana Wa Jannibish Shaytaana Maa Razaqtanaa

In the name of Allah, O Allah, distance Shaytan from us and from what you have given us in sustenance (progeny). If she conceives, that child will be protected from Shaytan.

صحیح ابن حبان (الإحسان في تقريب صحيح ابن حبان) 51/593 مؤسسة الرسالة
الحصن الحصين ابن الجزري ص 67
بهشتي زيور ص 533
فتاوی دار العلوم زکریاء 3/246
الاذکار للنووي ص 804-904 دار ابن کثیر

CULTURAL DIFFERENCES IN MARRIAGE

Q: I have a question related to my marriage:
Last year April 2013 I got married in Islamic republic of Pakistan in front of the judge & also in front of the Qazi (ISB) to a girl of the same nationality and religion (age 27, Doctor) after a struggle of 8 years. After which we were both living in KSA, and more than 300 people were invited in the reception. And countless people are aware about it in KSA and Pakistan through different social networks and friends. Her father was against this marriage because I am not from the same family & village, and he was forcing her to marry someone else; so we had to marry without informing her father – wali. (based on the Shariah knowledge we had). On 24th March 2014 while coming back from the honeymoon we stayed in Dubai for a day or two. I dropped her at her friend's place since, during this visit her family arrived at her friend's place, without my knowledge, they took her back with them.

Now they are saying that our Nikah is Haraam because it was against the parents concern and they won't let her stay with me because they consider this marriage Haram. I tried my level best but they are now only asking for a separation. I seek your guidance to solve this problem under the light of Shariah Law.

PS: That her eldest brother was the one who suggested us to go for this marriage, on different occasions and now even he is against us and supporting his father. We both families are the followers of Imam Abu Hanifa school of thought. We both have have Saudi residence (Iqama) and we both were living in Saudi before honeymoon. I love my wife and I can do anything to fix this marriage. Please guide us the best possible solution to have a happily married life.

A: In order for a marriage to be successful, it is important that all the role players of the spouses be included in a marital decision. The absence or sidestepping an important role player, like the father, has negative consequences as you are also witnessing and experiencing. As such, it would be advisable to exercise restraint and involve some influential people in order to win the girl's father's side.

Nevertheless, according to the Hanafi Mazhab (school of thought), a sane and mature girl has an independent right to get married. She does not require the consent of her parents or her representative (Wali). As such, if the Nikah was conducted in the presence of two male witnesses or one male and two female witnesses, the Nikah is valid. At this stage, we advise you to seek the assistance of a sensible person who has influence on the girl's family to intervene and if necessary, apologize. It is also important to enquire whether your wife wants a separation or not? The issue seems complex as she married you on her own will and also left you on her own will. She could still return to you while in Dubai.

(لَا رِضَا وَابِلَى) وَالْأَصْلُ أَنَّ كُلَّ مَنْ تَصَرَّفَ فِي مَالِهِ تَصَرَّفَ فِي نَفْسِهِ وَمَا لَا قَلَا (فَتَقَدَّ نِكَاحُ حُرَّةٍ مُكَلَّفَةٍ

{ رد المحتار على الدر المختار، ج 33، ص 55، دار الفكر-بيروت }

قَالَ - رَحِمَهُ اللَّهُ - (نَقَدَ نِكَاحُ حُرَّةٍ مُكَلَّفَةٍ بِلَا وَابِلَى)، وَهَذَا عِنْدَ أَبِي حَنِيفَةَ وَأَبِي يُوسُفَ فِي ظَاهِرِ الرِّوَايَةِ وَكَانَ أَبُو يُوسُفَ أَوَّلًا يَقُولُ إِنَّهُ لَا يَنْعَقِدُ إِلَّا بِوَابِلَى إِذَا كَانَ لَهَا وَابِلَى، ثُمَّ رَجَعَ وَقَالَ: إِنْ كَانَ الرُّؤُوحُ كُلُّهُمَا لَهَا جَارَ وَإِلَّا قَلَا، ثُمَّ رَجَعَ وَقَالَ: جَارَ سَوَاءُ كَانَ الرُّؤُوحُ كُلُّهُمَا أَوْ لَمْ يَكُنْ.

{ تبين الحقائق، ج 2، ص 711، المطبعة الكبرى الأميرية - بولاق، القاهرة }

نَقَدَ نِكَاحُ حُرَّةٍ مُكَلَّفَةٍ بِلَا وَابِلَى عِنْدَ أَبِي حَنِيفَةَ وَأَبِي يُوسُفَ رَحِمَهُمَا اللَّهُ تَعَالَى فِي ظَاهِرِ الرِّوَايَةِ كَذَا فِي التَّبْيِينِ

{ الفتاوى الهندية، ج 1، ص 782، دار الفكر }

قال ولا ينقذ نكاح المسلم إلا بحضور شاهدين حرين عاقلين بالغين مسلمين رجلين أو رجل وامرأتين عدولا كانوا أو غير عدول أو محدودين في القذف

{ الهداية، ج 1، ص 981، المكتبة الإسلامية }

MISTREATMENT FROM THE IN LAWS

Q: I have endless problems with my in laws. Few years ago I married my aunt's daughter. Before we got married, my relationship with my aunt and uncle was a really close one. But ever since we got married my father in law has always been funny with me, and my mother in law too, more often than not.

I am trying to be a better Muslim, but I'm always put down by them. They always say im extreme and I think I know everything. They even go around telling other family members that I am a bad and disrespectful son to my mother, which I am trying so hard to change. Every time we visited there was some or other issue. They treat me like im non-existent. I can't bring myself to going to stay with them.

My wife can stay with her parents and I'll stay elsewhere for the sole reason that I fear I may make it worse as I feel like I can't take the unfair treatment anymore. It also puts alot of strain on my marriage but my wife understands the situation.I have come to the resolve that I will definitely still be cordial, kind and most definitely respectful. But wont stay there again, rather with another family member whilst my wife will stay with her parents. Will I be sinful for this? Am I guilty of severing this relation?

A: We commend you for your patience and the cordial relationship you have maintained despite mistreatment from your in-laws. The treatment you have experienced from them is indeed unfortunate. You must however consider whether keeping a distance from them will exacerbate the situation further or make things better.

As you have noted, your wife understands the situation, so it might be prudent to discuss with her and seek her advice on what would be

the most appropriate course of action. She knows better about her parents. Regarding forsaking a fellow Muslim, Rasūlullāh (sallAllāhu ‘alayhi wasallam) said:

لا يحل لمسلم أن يهجر أخاه فوق ثلاث

“It is not permissible for a Muslim to forsake his (Muslim) brother for more than 3 days.” (Bukhārī and Muslim).

However, this is on condition that keeping a connection with them will not lead to further ill-feeling or harm. Imām al-Suyūṭī commented on this narration:

ومن خاف من مكالمة أحد وصلته ما يفسد على الدين أو يدخل مضرة في دنياه يجوز له مجانته والبعد عنه،
ورب هجر حسن خير من مخالطة مؤذية

“The one who fears that by talking to someone and keeping ties with him it will cause disturbance in his religion or cause harm in his worldly life, it is permissible for him to avoid him. Often a good-intentioned distance is better than a harmful interaction.”

Hence, you must consider, with the advice of those you trust, whether staying with your in-laws during your visit or staying elsewhere will be the most favorable course of action in your situation, and act accordingly. In making a decision, be conscious of the share of your nafs and guard against your nafs.

Allāh says:

إن النفس لأماراة بالسوء

“Verily, the nafs incites to evil.” (Qur’ān, 12:53)

MIXED GATHERING OF WEDDING AND WALIMA

Q: My cousin is getting married soon and 100 people of my family from Europe and Africa have come to stay in our house for the wedding. I am only going to attend the nikkah in the masjid. The wedding ceremony and the walima will have intermingling of opposite genders and photography. So i'm not going to attend those functions and i'm the only one in the house who is not attending them. My parents are not against me they support my decision but they will attend the ceremonies and won't defend me in my decision. The other relatives are criticizing me on my decision. Here are some of their points:

Why do you go to the market for shopping then, why do you go to campus as there are mixed genders there too?

A scholar in their American mosque is from Al-Azhar university of Egypt and has declared that intermingling of sexes is allowed because there was no separation between men and women.

You are going to hurt us and your cousin and his family and your grandparents if you don't come and this is against akhlaq.

If this is so much sin for you then just attend the wedding and then make tauba. Please help me regarding these points and give me answers for all of these points.

A: The most difficult choices that we are faced with in life involve those that make us choose between our family and our deen. It is at these times it is important for one to exercise caution and deal with one's family in a calm and dignified manner .

Nowadays, traditional marriages prevalent amongst the South Asian communities involve many acts contrary to the dictates of Shari'ah

and the Sunnah of our beloved Nabi (sallallahu alaihi wa sallam) such as the intermingling of men and women, unislamic customs and traditions , music , photography , etc. As such, it is best that you stick to your original judgment and avoid attending such gatherings . In reference to the points brought up by your relatives, it is first important to understand that you are not liable to give an explanation to each of the arguments posed by your relatives, especially when your parents support your decision. In such situations, you should simply excuse yourself from attending the gathering and kindly inform your family members about your stance concerning this matter without delving into unnecessary details. Nevertheless, for the sake of clarity we shall expound on these issues and address them as follows:

(1) Allah Ta'ālā has given us a perfect religion that takes into account the needs of humanity as a whole. Those who misunderstood this concept would taunt the Muslims and ridicule them. Allah Ta'ālā himself mentions such people in the Quran who used to taunt the Holy Prophet (sallallahu alaihi wa sallam) and say:

مَا لِهَٰذَا الرَّسُولِ يَأْكُلُ الطَّعَامَ وَيَمْشِي فِي الْأَسْوَاقِ

What sort of messenger is this who eats food and walks in the markets? [Al-Quran, 11:7]

Similarly, there is (and always was) a need in society for medical doctors who can tend to the sick and ill , especially at times when there is an outburst of certain diseases within individual communities. Therefore, Shari'ah has allowed one to pursue the field of medicine and offer one's service at a hospital as per the need of the society.

(2) Interaction with ghairmahrams and mixed gatherings are not only contrary to the teachings of the Quran and Sunnah , but they

also corrode the fine natural values Islam attempts to inculcate within us. As a result, these gatherings also become a reason for invoking the anger of Allah Ta'ālā. Allah Ta'ālā says in the Holy Quran:

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَى لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ. وَقُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ (سورة النور، ١٣)

Say to the believing men that they must lower their gazes and guard their private parts; it is more decent for them. Surely Allah is All-Aware of what they do. And say to the believing women that they must lower their gazes and guard their private parts, and must not expose their adornment. [Al-Quran, 24:30-31]

The Holy Prophet (sallallahu alaihi wa sallam) said:

كُتِبَ عَلَى ابْنِ آدَمَ نَصِيئُهُ مِنَ الزِّنَا، مُدْرِكُ ذَلِكَ لَا مَحَالَةَ، فَالْعَيْنَانِ زِنَاهُمَا النَّظَرُ، وَالْأُذُنَانِ زِنَاهُمَا الْإِسْتِمَاعُ، وَاللِّسَانُ زِنَاهُ الْكَلَامُ، وَالْيَدُ زِنَاهَا الْبَطْشُ، وَالرَّجُلُ زِنَاهَا الْخُطَا، وَالْقَلْبُ يَهْوَى وَيَتَمَتَّى، وَيُصَدِّقُ ذَلِكَ الْفَرْجُ وَيَكْذِبُهُ

Allah has written for the children of Adam their share of zina which he commits inevitably. The zina of the eyes is the sight (to gaze at a forbidden thing), the zina of the ears is to hear, the zina of the tongue is the talk, the zina of the hands is to touch (that which is forbidden), the zina of the feet is to take steps (towards that which is forbidden) and the heart wishes and desires and the private parts testify all this or deny it. [Sahih Muslim, 2657, Book of al-Qadr (Fate)]

From the above texts, it should be quite apparent that Shari'ah has emphasized that one should lower his gaze and try one's best to protect his or her own chastity. In occasions such as these, it is obvious to all those who attend that such commands of Shari'ah are not taken into consideration and the laws of Allah Ta'ālā are thrown aside. A traditional shaadi and an Islamic lecture bear no similarity at all,

especially in today's day and age. Furthermore, a lecture is limited to simply hearing a speech and requires no interaction between men and women. On the other hand, aside from intermingling with the opposite gender, traditional marriage ceremonies force one to sit in gatherings full of music, idle talk, and rusumaat (customs) that hold no basis in Shari'ah at all.

(3) The Holy Prophet (sallallahu alaihi wa sallam) has said:

لَا طَاعَةَ لِمَخْلُوقٍ فِي مَعْصِيَةِ الْخَالِقِ

There is no obedience to the creation in disobedience to the creator [Mishkah al-Masabih, 3696, Chapter of Imarah and Qadha]

It is illogical for one to please his relatives while displeasing the Creator himself. Akhlaq entails one to be kind and affectionate towards one's relatives and keep good relation with them. This does not mean that one should sacrifice one's Islamic values for the sake of another. The prophets in the past were always shunned by their close relatives because they would give preference to the commands of Allah Ta'ālā over the invitations towards evil from their families.

(4) Allah Ta'ālā narrates the story of Prophet Yusuf (alaihis salam) and describes the rationale his brothers used in their plot to kill Yusuf (alaihis salam) as they said to one another:

اقْتُلُوا يُوسُفَ أَوْ اطْرَحُوهُ أَرْضًا يَخْلُ لَكُمْ وَجْهُ أَبِيكُمْ وَتَكُونُوا مِنْ بَعْدِهِ قَوْمًا صَالِحِينَ

Kill Yusuf or throw him in some land , so that your father's face may be yours alone, and after that you may become a righteous people. [Al-Quran, 12:9]

This concept of sinning with the intention to repent later is foreign to the teachings of Islam. If one's life is taken while one is engaged in such an act, can he be guaranteed forgiveness after having the audacity to purposely overstep the boundaries of Allah Ta'ālā? Allah Ta'ālā says in the Holy Quran:

إِنَّمَا التَّوْبَةُ عَلَى اللَّهِ لِلَّذِينَ يَعْمَلُونَ السُّوءَ بِجَهَالَةٍ ثُمَّ يَتُوبُونَ مِنْ قَرِيبٍ فَأُولَئِكَ يَتُوبُ اللَّهُ عَلَيْهِمْ وَكَانَ اللَّهُ عَلِيمًا حَكِيمًا وَلَيْسَتِ التَّوْبَةُ لِلَّذِينَ يَعْمَلُونَ السَّيِّئَاتِ حَتَّى إِذَا حَضَرَ أَحَدَهُمُ الْمَوْتُ قَالَ إِنِّي تُبْتُ الْآنَ

The relenting taken by Allah upon Himself is for those who do evil in ignorance then repent shortly there after. So, Allah relents towards them. And Allah is All-Knowing, All-Wise. And the relenting is not for those who do the evil deeds until when the time of death approaches one of them, he says, “Now I repent”... [Al-Quran, 4:7-8]

May Allah Ta'ālā keep you steadfast on your deen and grant you success in this life and the hereafter. Ameen.

With the following comments from Mufti Ebrahim Desai Saheb (dāmat barakātuhū):

Your relatives may be fully aware of the various violations of Shari'ah while they seek your participation to support their denial of their wrong. Your persistent and gentle aversion to the wrongs will inculcate respect and honour in their hearts for your taqwā and piety. Your attitude will also serve to make them contemplate and reform their lives. The beauty and dignity emanating through taqwā always rides high.

Fatawa Mahmudiyyah, vol. 11, pg. 255, Darul Iftaa Jami'ah Faruqiyyah
Ibid., pg. 199 & 202 & 213
Ibid., pg. 219-220 & 228

حَدَّثَنِي أَبُو عَامِرٍ أَنَّ أَبَا مَالِكٍ الشَّعْرِيُّ، وَاللَّهُ مَا كَذَّبَنِي: سَمِعَ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: "لَيَكُونَنَّ مِنْ أُمَّتِي أَقْوَامٌ، يَسْجُدُونَ الْحَرَّ وَالْحَرِيرَ، وَالْخَمْرَ وَالْمَعَازِفَ، وَلَيَبْرُلَنَّ أَقْوَامٌ إِلَى جَنْبِ عِلْمٍ، يَدْرُخُ عَلَيْهِمْ بِسَارِحَةٍ لَهُمْ، يَأْتِيهِمْ - يَغْنِي الْفَقِيرَ - بِخَاجَةٍ يَقُولُونَ: ارْجِعْ إِلَيْنَا غَدًا، فَيُبَيِّنُهُمُ اللَّهُ، وَيَضَعُ الْعِلْمَ، وَيَسْخَرُ آخَرِينَ قِرْدَةً وَخَنَازِيرَ إِلَى يَوْمِ الْقِيَامَةِ"

(صحيح البخاري، ٠٩٥٥، كتاب الأشربة، باب ما جاء فيمن يستحل الخمر و يسميه باسم غيره):

(قوله وكره كل لهو) أي كل لعب وعبث فالثلاثة بمعنى واحد كما في شرح التأويلات والإطلاق شامل لنفس الفعل، واستماعه كالرقص والسخرية والتصفيق وضرب الأوتار من الطنبور والربط والرباب والقانون والمزامر والصنج والبوق، فإنها كلها مكروهة لأنها زي الكفار، واستماع ضرب الدف والمزمار وغير ذلك حرام وإن سمع بغتة يكون معذوراً ويجب أن يجتهد أن لا يسمع قهستاني (رد المحتار علي الدر المختار، ج ٦، ص ٥٩٣، إيج ايم سعيد كمبني)

عَائِشَةُ أُمُّ الْمُؤْمِنِينَ رَضِيَ اللَّهُ عَنْهَا: أَنَّهَا أَخْبَرَتْهُ أَنَّهَا اشْتَرَتْ مُرَقَّةً فِيهَا تَصَاوِيرُ، فَلَمَّا رَأَاهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَامَ عَلَى الْبَابِ، فَلَمَّ يَدْخُلُهَا، فَعَرَفْتُ فِي وَجْهِهِ الْكَرَاهِيَةَ، فَقُلْتُ: يَا رَسُولَ اللَّهِ أَتُوبُ إِلَى اللَّهِ، وَإِلَى رَسُولِهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَاذَا أَذْنَبْتُ؟ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَا بَالُ هَذِهِ الْمُرَقَّةِ؟» قُلْتُ: اشْتَرَيْتُهَا لِكَيْ تَتَقَدَّعَ عَلَيْهَا وَتُوسَّدَها، فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ أَصْحَابَ هَذِهِ الصُّورِ يَوْمَ الْقِيَامَةِ يُعَذَّبُونَ، فَيُقَالُ لَهُمْ أَخْيُوتَا مَا خَلَقْتُمْ؟» وَقَالَ: «إِنَّ الْبَيْتَ الَّذِي فِيهِ الصُّورُ لَا تَدْخُلُهُ الْمَلَائِكَةُ» (صحيح البخاري، ٥٠١٢، باب التجارة فيكرة يكره لبسه للرجال و النساء):

قَوْلُهُ وَلُبْسُ ثَوْبٍ فِيهِ تَمَائِيلٌ: عَدَلَ عَنْ قَوْلِ غَيْرِهِ تَصَاوِيرٍ لِمَا فِي الْمُرْقِبِ: الصُّورَةُ عَامٌ فِي ذِي الرُّوحِ وَغَيْرِهِ، وَالتَّمَائِيلُ خَاصٌّ بِمِثَالِ ذِي الرُّوحِ وَيَأْتِي أَنْ غَيَّرَ ذِي الرُّوحِ لَا يُكْرَهُ قَالَ الْفُهْستائي: وَفِيهِ إِشْعَارٌ بِأَنَّهُ لَا تُكْرَهُ صُورَةُ الرَّأْسِ، وَفِيهِ خِلَافٌ كَمَا فِي اتِّخَاذِهَا كَذَا فِي الْمَجِيطِ، قَالَ فِي الْبَحْرِ: وَفِي الْخَلَاصَةِ وَتُكْرَهُ التَّصَاوِيرُ عَلَى الثُّوبِ صَلَّى فِيهِ أَوْ لَا اتَّهَى، وَهَذِهِ الْكَرَاهَةُ تَحْرِيمِيَّةٌ. وَظَاهِرُ كَلَامِ النَّوَوِيِّ فِي شَرْحِ مُسْلِمٍ الْإِجْمَاعُ عَلَى تَحْرِيمِ تَصْوِيرِ الْحَيَوَانَاتِ، وَقَالَ: وَسَوَاءٌ صَنَعَهُ لِمَا يَهْتَمُّنَ أَوْ لِغَيْرِهِ، فَصَنَعَتْهُ حَرَامٌ بِكُلِّ حَالٍ لِأَنَّ فِيهِ مُشَاهَدَةً لِخَلْقِ اللَّهِ تَعَالَى، وَسَوَاءٌ كَانَ فِي ثَوْبٍ أَوْ بِسَاطٍ أَوْ دِرْهَمٍ وَإِنَاءٍ وَخَانِيطٍ وَغَيْرِهَا أَهْ فَيُنْبَغِي أَنْ يَكُونَ حَرَامًا لَا مَكْرُوهًا إِنْ ثَبَتَ الْإِجْمَاعُ أَوْ قَطْعِيَّةُ الدَّلِيلِ بِتَوَاتُرِهِ أَهْ كَلَامُ الْبَحْرِ مُلَخَّصًا. وَظَاهِرُ قَوْلِهِ فَيُنْبَغِي الْإِغْتِرَافُ عَلَى الْخَلَاصَةِ فِي تَسْمِيَّتِهِ مَكْرُوهًا. (رد المحتار علي الدر المختار، ج ١، ص ٧٤٦، إيج ايم سعيد كمبني):

(قَوْلُهُ وَلُبْسُ ثَوْبٍ فِيهِ تَصَاوِيرُ) لِأَنَّهُ يُشْبِهُ حَامِلَ الصِّمَّةِ فَيُكْرَهُ وَفِي الْخَلَاصَةِ وَتُكْرَهُ التَّصَاوِيرُ عَلَى الثُّوبِ صَلَّى فِيهِ أَوْ لَا يُصَلِّ أَهْ وَهَذِهِ الْكَرَاهَةُ تَحْرِيمِيَّةٌ وَظَاهِرُ كَلَامِ النَّوَوِيِّ فِي شَرْحِ مُسْلِمٍ الْإِجْمَاعُ عَلَى تَحْرِيمِ تَصْوِيرِ صُورَةِ الْحَيَوَانَاتِ وَأَنَّهُ قَالَ قَالَ أَصْحَابُنَا وَغَيْرُهُمْ مِنَ الْعُلَمَاءِ تَصْوِيرُ صُورِ الْحَيَوَانَاتِ حَرَامٌ شَدِيدٌ الْخَطْبِ وَهُوَ مِنَ الْكَبَائِرِ لِأَنَّهُ مُتَوَعَّدٌ عَلَيْهِ بِهَذَا الْوَعْدِ الشَّدِيدِ الْمَذْكُورِ فِي الْأَحَادِيثِ يَغْنِي مِثْلَ مَا فِي الصَّحِيحَيْنِ عَنْهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «أَشَدُّ النَّاسِ عَذَابًا يَوْمَ الْقِيَامَةِ الْمُصَوِّرُونَ» يُقَالُ لَهُمْ أَخْيُوتَا مَا خَلَقْتُمْ» (البحر الرائق، ج ٢، ص ٧٢، إيج ايم سعيد كمبني)

Fatawa Mahmudiyyah, vol. 11, pg. 220 & 228 & 247, Darul Iftaa Jami'ah Faruqiyyah;

...وَمِنْ يَقَعْدُ) لِأَن فِيهِ شَيْنَ الدِّينِ وَالْمَحْيَى عَنِ الْإِمَامِ كَانِ قَبْلَ أَنْ يَصِيرَ مُقْتَدِي بِهِ (وَأِنْ عِلْمُ أَوَّلَا) بِاللَّعِبِ (لَا يَحْضُرُ أَصْلًا) سِوَاهُ كَانِ مِمَّنْ يَقْتَدِي بِهِ أَوْ لَا لِأَنَّ حَقَّ الدَّعْوَةِ إِنْمَا يُلْزِمُهُ بَعْدَ الْحُضُورِ لَا قَبْلَهُ إِنْ كَمَالَ. وَفِي السَّرَاجِ وَدَلَّتِ الْمَسْأَلَةُ أَنَّ الْمَلَاحِي كُلَّهَا حَرَامٌ (قَوْلُهُ لَا يَنْبَغِي أَنْ يَقَعْدَ) أَيِ يَجِبُ عَلَيْهِ قَالِ فِي الْاِخْتِيَارِ أَنْ اسْتِمَاعَ اللَّهْوِ حَرَامٌ وَالْإِجَابَةُ سَنَةٌ وَالامْتِنَاعُ عَنِ الْحَرَامِ أَوَّلَى أَهْ وَكَذَا إِذَا كَانَ عَلَى الْمَانِدَةِ قَوْمٌ يَغْتَابُونَ لَا يَقَعْدُ فَالْغَيْبَةُ أَشَدُّ مِنَ اللَّهْوِ وَاللَّعِبِ تَنَارُخَانِيَّةٌ (رد المحتار علي الدر المختار، ج ٦، ص ٨٤٣، إيج ايم سعيد كمبني):

وَإِنْ كَانَ هُنَاكَ لَعِبٌ وَغَنَاءٌ قَبْلَ أَنْ يَخْطُرَ بِهَا فَلَا يَخْطُرُ بِهَا؛ لِأَنَّهُ لَا يُلْزِمُهُ إِجَابَةُ الدَّعْوَةِ إِذَا كَانَ هُنَاكَ مُنْكَرٌ. «وَقَالَ عَلِيُّ - رَضِيَ اللَّهُ عَنْهُ - صَنَعْتُ طَعَامًا فَدَعَوْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَجَاءَ فَرَأَى فِي الْبَيْتِ تَصَاوِيرَ فَرَجَعَ» رَوَاهُ ابْنُ مَاجَةَ، وَعَنْ ابْنِ عُمَرَ أَنَّهُ قَالَ «تَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ مَطْعَمَيْنِ عَنْ الْجُلُوسِ عَلَى مَائِدَةٍ يُشْرَبُ عَلَيْهَا الْخَمْرُ، وَأَنْ يَأْكُلَ وَهُوَ مُتَبَطِّحٌ» رَوَاهُ دَاوُدُ وَذَلَّتِ الْمَسْأَلَةُ عَلَى أَنَّ الْمَلَاحِي كُلَّهَا حَرَامٌ حَتَّى الثَّغْنِيُّ يَضْرِبُ الْقَضِيبَ (بَيِّنِ الْحَقَائِقَ، ج ٦، ص ٣١، مكتبة امدادية):

قَالَ (وَمَنْ دَعِيَ إِلَى لَيْمَةٍ أَوْ طَعَامٍ فَوَجَدَ مَعَهُ لَيْمَةً أَوْ غَنَاءً فَلَا يَأْسُ بِأَنْ يَقَعْدَ وَيَأْكُلَ) قَالَ أَبُو خَنِيفَةَ - رَحِمَهُ اللَّهُ -: «إِثْبَاتُ يَهْدَا عَرَّةٌ فَصَرَّتْ. وَهَذَا لِإِجَابَةِ الدَّعْوَةِ سُنَّةٌ. قَالَ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ - «مَنْ لَمْ يُجِبِ الدَّعْوَةَ فَقَدْ عَصَى أَبَا الْقَاسِمِ» فَلَا يُزَكُّهَا لِمَا افْتَرَى بَها مِنْ الْبِدْعَةِ مِنْ غَيْرِ، كَصَلَاةِ الْجَنَازَةِ وَاجِبَةُ الْإِقَامَةِ وَإِنْ حَضَرَتْهَا نِيَاةً، فَإِنَّ قَدْرَ عَلَى الْمَنَعِ مَتَّعَهُمْ، وَإِنْ لَمْ يَقْرَ بِضَرْ، وَهَذَا إِذَا لَمْ يَكُنْ مُقْتَدِي بِهِ، فَإِنْ كَانَ مُقْتَدِي وَلَمْ يَقْرَ عَلَى مَتَّعِهِمْ يَخْرُجُ وَلَا يَقَعْدُ؛ لِأَنَّ فِي ذَلِكَ شَيْنَ الدِّينِ وَقَدْ نَبَّ الْمُغْصِيَّةَ عَلَى الْمُسْلِمِينَ، وَالْمَحْيَى عَنْ أَبِي خَنِيفَةَ - رَحِمَهُ اللَّهُ - فِي الْكِتَابِ كَانِ قَبْلَ أَنْ يَصِيرَ مُقْتَدِي بِهِ (العناية شرح الهداية، ج ٦، ص ٩٠١، دار الكتب العلمية)

Fatawa Uthmani, vol. 1, pg. 169, Maktabah Ma'ariful Quran;

واعلم أن تعلم العلم يكون فرض عين وهو بقدر ما يحتاج لدينه. وفرض كفاية، وهو ما زاد عليه لنفع غيره. (قوله: وفرض كفاية (الخ) عرفه في شرح التحرير بالمتحتم المقصود حصوله من غير نظر بالذات إلى فاعله. قال: فيتناول ما هو ديني كصلاة الجنازة، ودينوي كالصنائع المحتاج إليها وخرج المسنون؛ لأنه غير متحتم، وفرض العين لأنه منظور بالذات إلى فاعله. اهـ قال في تبيين المحارم: وأما فرض الكفاية من العلم، فهو كل علم لا يستغنى عنه في قوام أمور الدنيا كالطب والحساب (رد المحتار علي الدر المختار، ج ١، ص ٢٤، إيج ايم سعيد كمبني)

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَى لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ. وَقُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ (سورة النور، ١٢):
وَلَا تَقْرُبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ (سورة الأنعام، ١٥١):
عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، قَالَ: «كُتِبَ عَلَى ابْنِ آدَمَ نَصِيْبُهُ مِنَ الرِّثَا، مَذْرُوكٌ ذَلِكَ لَا مَخَالَ، فَأَلْعَيْنَانِ رِثَاهُمَا النَّظَرُ، وَالْأَذْنَانِ رِثَاهُمَا الْإِسْتِمَاعُ، وَاللِّسَانُ رِثَاهُمَا الْكَلَامُ، وَالْيَدُ رِثَاهُمَا الْبَطْشُ، وَالرِّجْلُ رِثَاهُمَا الْخُطَا، وَالْقَلْبُ يَهْوَى وَيَتَمَتَّى، وَيُضَدِّقُ ذَلِكَ الْفَرْجُ وَيُكَذِّبُهُ» (صحيح مسلم، كتاب القدر، ج ٤، ص ٧٤٠٢، دار إحياء التراث):

عَنِ الْحَسَنِ قَالَ: بَلَّغَنِي أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: "لَعَنَ اللَّهُ النَّاطِرَ وَالْمَنْظُورَ إِلَيْهِ"، هَذَا مُرْسَلٌ (سنن الكبرى للبيهقي، كتاب النكاح، باب ما جاء في الرجل ينظر إلى عورة الرجل والمرأة تنظر إلى عورة المرأة ويفضي كل واحد منهما إلى صاحبه، ج ٧، ص ٩٥١، دار الكتب العلمية):
والاصل في هذا أن المرأة عورة مستورة لقوله عليه الصلاة والسلام المرأة عورة مستورة إلا ما استثناه الشرع وهما عضوان (البحر الرائق، ج ٨، ص ١٩١، إيج ايم سعيد كمبني):

NIKAH VIA SKYPE

Q: I got my Nikkah done without my parents consent is my Nikkah valid? I was 24 years old at the time and my wife was 20. Neither my parents nor did the parents of my wife knew of this marriage. The Nikkah was performed on the internet via skype, the imam who performed the Nikkah was aware of the situation. The imam was designated as a Wali on her consent there were two other male witness present at the time of Nikkah. Her parents were not giving consent because they wanted consent from my parents first. i was forced into marriage with my cousin in pakistan by my parents and when I came back to the US i stayed in contact and married the girl i wanted while remaining married to my cousin.

I have a child with my cousin and do not like her at all. She doesn't mean anything to me. I want to leave her because I am only with her for the sake of my parents and I do not have any physical relationship wiith her, she just lives in my house. the girl who i wanted to marry told her parents about her marriage to me and they forced me to say talaq 3 times and said that our marriage was invalid to begin with.

can you please advise me on what I should do and can you tell me whether my nikkah is valid or not?

A : Before we answer your query, it is important to understand the implications your actions might have on your family and the families of the other two girls if you continue with these relationships as they are.

Islam has granted us the right to nikah as a means to secure our chastity and establish a connection with our spouses. It is a relationship formed through love and mutual understanding between the husband and the wife. If one does not value this gift from Allah Ta'ālā, it could bring catastrophic results for both the husband and the wife. In your case, not only did you consummate your marriage with your wife, you were also blessed with a child through her. Before making any further decisions in regards to your first marriage, you should consider the future of your wife and your child and contemplate over the following points:

Who will take care of the child?

How will the child live a life without love from both a mother and a father?

How will this impact your family and hers?

Have you considered your wife's feelings in this matter and the mental suffering she must be experiencing from knowing that her husband does not want to be with her or the child?

How will you answer to Allah Ta'ālā in the divine courts if you leave your child and simultaneously earn the anger of your parents? Irrespective of the pressure from your parents to marry your cousin, the fact is

you got married to her. By your choice and will, why should she suffer?

What type of impact will this have on the second girl; physically and emotionally?

How will you deal with her family and relatives?

Can you ensure her happiness in the future without the support of her parents and close family members?

In regards to your original query, we will need you to further elaborate on the following before we issue any ruling:

- (1) What were the details of the Skype nikah?
- (2) What words were used to perform the nikah by the Imam?
- (3) You stated “they forced me to say talaq 3 times”. What happened afterwards? Did you say talaq three times? If yes, what words did you use to do so?

NIKAH NOT APPROVED VERBALLY

Q: During a ceremony the father of the girl told the present people (around 15 relatives from both sides), that he had given his daughter by the named so-and-so to the boy named so-and-so. The boys family accepted the offer by giving a present, as is usual amongst the people. However, it wasnt said explicitly by the boy or any other representative that “he accepts her in marriage”. Also the mahr was not mentioned in any way. Is this a valid nikah or are the boy and girl still considered non-mahram strangers?

A: In principle, it is necessary to verbally pronounce one's approval in order to initiate the nikāh. As such, the nikāh in question was invalid and the boy and girl are still considered to be non-mah-ram for each other.

Fatāwā Dārul 'Ulūm Zakariyyā, v. 3 p. 562, Zam Zam Publishers;
Fatāwā Dārul 'Ulūm Deoband, v. 1 p. 419, Dārul Ishā' at;

[قال الحصكفي] (قُلْتُ: فَلَا يُتَعَقَّدُ بِقَبُولِ الْفِعْلِ كَقَبْضِ مَهْرٍ وَلَا بِتَعَاطٍ وَلَا بِكِتَابَةِ حَاضِرٍ
[قال ابن عابدين] (قُلْتُ: فَلَا يُتَعَقَّدُ إِلَّا) تَفْرِيعٌ عَلَى مَا تَقَدَّمَ مِنْ انْتِقَادِهِ بِالْفَطْرِ إِلَيْهِ ح (قُلْتُ: كَقَبْضِ مَهْرٍ) قَالَ فِي التَّبَعْرِ: وَهَلْ يَكُونُ الْقَبُولُ بِالْفِعْلِ كَالْقَبُولِ بِالْفَطْرِ كَمَا
فِي التَّبَعْرِ؟ قَالَ فِي التَّبَازِيَةِ أَجَابَ صَاحِبُ الْبِدَايَةِ فِي امْرَأَةٍ زَوَّجَتْ نَفْسَهَا بِأَلْفٍ مِنْ رَجُلٍ عِنْدَ الشُّهُودِ: فَلَمْ يَقُلْ الزَّوْجُ شَيْئًا لَكِنْ أَعْطَاهَا الْمَهْرَ فِي الْمَجْلِسِ أَنَّهُ يَكُونُ قَبُولًا،
وَأَنْكَرَهُ صَاحِبُ الْمُحِيطِ وَقَالَ الْإِمَامُ مَا لَمْ يَقُلْ بِلِسَانِهِ قَبِلَتْ بِخِلَافِ التَّبَعِ لِأَنَّهُ يُتَعَقَّدُ بِالتَّعَاطِي وَالنَّكَاحِ لِيُطْرَهَ لَا يُتَعَقَّدُ حَتَّى يَتَوَقَّفَ عَلَى الشُّهُودِ وَبِخِلَافِ إِجَازَةِ نِكَاحِ
الْمُشْهُوْلِ بِالْفِعْلِ لُجُودِ الْقَوْلِ هَمَّةً. اهـ ح
(رد المحتار علي الدر المختار، ج ٣، ص ٢١، إيج إيم سعيد كمبني)

وَالثَّانِي قَبُولٌ وَهَلْ يَكُونُ الْقَبُولُ بِالْفِعْلِ كَالْقَبُولِ بِالْفَطْرِ كَمَا فِي التَّبَعِ قَالَ: فِي التَّبَازِيَةِ أَجَابَ صَاحِبُ الْبِدَايَةِ فِي امْرَأَةٍ زَوَّجَتْ نَفْسَهَا بِأَلْفٍ مِنْ رَجُلٍ عِنْدَ الشُّهُودِ فَلَمْ
يَقُلْ الزَّوْجُ شَيْئًا لَكِنْ أَعْطَاهَا الْمَهْرَ فِي الْمَجْلِسِ أَنَّهُ يَكُونُ قَبُولًا، وَأَنْكَرَهُ صَاحِبُ الْمُحِيطِ، وَقَالَ: لَا مَا لَمْ يَقُلْ بِلِسَانِهِ قَبِلَتْ بِخِلَافِ التَّبَعِ: لِأَنَّهُ يُتَعَقَّدُ بِالتَّعَاطِي وَالنَّكَاحِ
لِيُطْرَهَ لَا يُتَعَقَّدُ حَتَّى يَتَوَقَّفَ عَلَى الشُّهُودِ بِخِلَافِ إِجَازَةِ نِكَاحِ الْمُشْهُوْلِ بِالْفِعْلِ لُجُودِ الْقَوْلِ هَمَّةً. اهـ
(البحر الرائق، ج ٣، ص ١٨، إيج إيم سعيد كمبني)

FOUR WOMEN - ONE MAN

Q: Why in Islam its permissible for men to marry 4 women but women can't marry 4 men?

A: You enquire why is it permissible in Islām for a man to have four wives whereas women can only have one husband. The straight forward and simple reply is Allah permitted men to have a maximum of four wives and Allah prohibited women to have more than one husband at a time. Allah is Al-Hakeem (All Wise). Every order of Allah has wisdom in it and is best suited for the individual and time.

When we apply our limited intellect to the differences in the enquired issue, we understand that it is a well-established research and fact that males and females differ in their character and conduct based on their natural make up. Consider the following:

-A US team at the University of Pennsylvania scanned the brains of nearly 1,000 men, women, boys and girls and found striking differences. Male brains appeared to be wired front to back, with few connections bridging the two hemispheres. In females, the pathways criss-crossed between left and right. These differences might explain why men, in general, tend to be better at learning and performing a single task, like cycling or navigating, whereas women are more equipped for multitasking, say the researchers in the journal Proceedings of the National Academy of Sciences (PNAS). The same volunteers were asked to perform a series of cognitive tests, and the results appeared to support this notion.

-The researchers also believe the physical differences between the two sexes in the way the brain is hardwired could play an important role in understanding why men are in general better at spatial tasks involving muscle control while women are better at verbal tasks involving memory and intuition. Psychological testing has consistently indicated a significant difference between the sexes in the ability to perform various mental tasks, with men outperforming women in some tests and women outperforming men in others. Now there seems to be a physical explanation, scientists said.

“These maps show us a stark difference - and complementarity - in the architecture of the human brain that helps to provide a potential neural basis as to why men excel at certain tasks, and women at others,” said Ragini Verma, professor of radiology at the University of Pennsylvania in Philadelphia.

Men tend to outperform women involving spatial tasks and motor skills - such as map reading - while women tend to be better in memory tests, such as remembering words and faces, and social cognition tests, which try to measure empathy and “emotional intelligence”. Researchers also mention “Females and males maintain unique brain characteristics throughout life. Male brains, for instance, are about 10% larger than female brains.” Disparities in how certain brain substances are distributed may be more revealing. Notably, male brains contain about 6.5 times more gray matter -- sometimes called ‘thinking matter’ -- than women.

The religion of Islām is a practical religion that also considers nature in directing laws and obligations. Polyandry is impractical for a woman and will place unbearable burden upon her. Thus, the prohibition of polyandry for a woman is based on care and compassion for her. How will a woman fulfill the marital demands of more than one man, his intimacy needs, his temperament, and various other challenges? When a woman with one husband experiences so many challenges, imagine the burden with more than one husband. What will a woman in such a relationship do when she is pregnant with one man’s child? How will the child’s lineage stay secure? Consider the emotions, jealousy, etc. she will have to undergo from the other husbands.

It is clear from the above that Allah Ta’ālā’s ruling of prohibiting females to have more than one husband reflects the hikmat and wisdom of Allah and His compassion for women.

<http://www.bbc.com/news/health-25198063>
<http://www.independent.co.uk/life-style/the-hardwired-difference-between-male-and-female-brains-could-explain-why-men-are-better-at-map-reading-8978248.html>
<http://www.webmd.com/balance/features/how-male-female-brains-differ?page=2>

WISHING SOMEONE WELL ON THEIR BIRTHDAY

Q: I do not celebrate my birthday nor in my family anyone does but my friends wish me on my birthday on phone or personally or on whatsapp so at such situation is it permissible to say just “thanks” to them. It will be rude if i don’t reply. Also can i wish them on their birthday since they feel bad if i don’t. I do not indulge in their birthday parties.

A: It is clear that you are aware that celebrating birthdays is not permissible. One requires lots of wisdom and diplomacy in correcting a wrong practice especially amongst close friends and associates.

In the enquired situation you may consider replying by saying “make dua” etc. There is nothing wrong in acknowledging a birthday of someone and making dua for the person. Celebrating birthdays as disbelievers do, is prohibited.

1304 - حَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا أَبُو النَّضْرِ، حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ ثَابِتٍ، حَدَّثَنَا خُشَّانُ بْنُ عَطِيَّةَ، عَنْ أَبِي مُنَيْبٍ الْجُرَيْرِيِّ، عَنِ ابْنِ عُمَرَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ تَشَبَّهَ بِقَوْمٍ فَهُوَ مِنْهُمْ» (أبو داود)
(فتاوى محمودية، 765/91)

INSTAGRAM FOR FEMALES

Q: I recently created an Instagram so I can post material related to Islam only. My intention is to educate others on a variety of subjects that are pertinent to us today. As a Muslim woman, I was wondering if I should keep my followers restricted to females only.

A: It is encouraging to note that you are conscious of your duties as a Muslim woman. May Allah Ta'ālā keep you steadfast on his Deen. Ameen.

Islam attempts to establish a system that promotes social welfare while closing all avenues that may lead to fitnah. Like any other social networking website, allowing minimal interaction between you and other men, even if it is only by allowing them to follow your Instagram posts, may lead to further interaction in the future. To understand this more clearly, would you allow yourself to hold a forum on Islamic discussions with other men?

Even though you intend to post topics relating to Islam only, there is one main factor that must be taken into consideration. The internet is an openly accessible global network allowing all to connect with each other around the world. While you intend to maintain Islamic posts, you are opening the door for others to make a connection with you. Rasulullah (sallallahu 'alaihi wa sallam) said:

إِنَّ الشَّيْطَانَ يَجْرِي مِنَ الْإِنْسَانِ مَجْرَى الدَّمِ

Verily, Shaitān runs through a person like the running of blood (through veins). Due to the complete anonymity and privacy one has in the online world, it allows people to step across the boundaries of Shari'ah without fear from anyone. In an online environment where one is free to engage another without a second thought, it is imperative for one to be cautious and avoid any situations where it might lead one towards fitnah. As such, it is our advice that you avoid allowing men to follow your Instagram posts.

COLOUR OF NIQĀB

Q: Is it best for one who wears niqab to wear all black? I know it is permissible to wear other colors as long as it isn't bright or attractive, but I was just wondering which is best.

A: The Burqa' and Niqāb of a woman serve to conceal her beauty. As such, the Burka' and Niqāb should:

- 1) Completely conceal the body.
- 2) Be loose such that it does not show the outline and contours of the body.
- 3) Not be beautiful or of eye-catching colours, that it attracts attention. This includes bright and shiny embroidery and beads.
- 4) Not be unusual or extraordinary such that it attracts attention. It is preferable to wear a colour that is commonly worn in that particular area.

According to the principles outlined above, it is permissible for a woman to wear a Burqa' or Niqāb of any colour long as it does not violate any of the above mentioned conditions.

Fatawa Bayyinaat, Vol 4, Pg 458 (Maktabah Bayyinaat)

Fatawa Mahmudiyyah, Vol 19, Pg 307 (Maktabah Faruqiyyah)

Ahkaam-ul-Qur'aan Mufti Shafi' Uthmani, Vol 3, Pg 435 (Idarat-ul-Qur'aan)

WOMEN'S FASHION SHOW

Q: In our town there is a lady that's having a function which is called let loose. mufti in this function there will be a book launch. Only females allowed. women must let their hair loose and a fashion show will be taking place. the entire objective is for all Muslim females to have fun too dress let your hair open etc. Mufti please explain in view of quraan and hadith is this allowed and what advice can you give to our young girls with regards too this function.

A: Islam is a pure and dynamic religion that provides guidance for all facets of life including modes of worship, business and trade, and our dealings with others whether privately, or publically in social gatherings. Although Shari'ah does not forbid us from having fun and expressing our happiness, it still provides us guidance in expressing such feelings by setting out principles that maintain the standard of Islam.

The event in question, accompanied with a fashion show, contains many elements that go against the morals and values Islam attempts to inculcate within us:

1) Kibr and Riyā (pride and vanity): The purpose of a fashion show is to show off one's glamour by becoming eye candy for the audience. Such an act creates pride in the heart and results in a negative impact on one's imān. Consider the following hadīth:

عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: لَا يَدْخُلُ الْجَنَّةَ مَنْ كَانَ فِي قَلْبِهِ مِثْقَالُ ذَرَّةٍ مِنْ كِبَرٍ

The Holy Prophet (sallallahu 'alaihi wa sallam) said: "That person will not enter jannah who has even an atom's weight of pride in his heart."

2) Loss of Hayā: Allah Ta'ālā has created women with the inherent quality of shame and modesty (i.e. hayā). It is a special quality that signifies the chastity and lofty status of a woman. As a pure religion, Islam also promotes acts of modesty and self respect (i.e. hayā); the Holy Prophet (sallallahu alaihi wa sallam) said:

«إِنَّ لِكُلِّ دِينٍ خُلُقًا، وَإِنَّ خُلُقَ الْإِسْلَامِ الْحَيَاءُ»

“Verily in every religion there is morality, the morality of Islam is modesty.”

In another hadith, the Holy Prophet (sallallahu alaihi wa sallam) states:

«الْحَيَاءُ مِنَ الْإِيمَانِ، وَالْإِيمَانُ فِي الْجَنَّةِ»

“Modesty is part of faith, and faith will be in Paradise.”

The event in question attempts to “free” women from this quality by “loosening themselves” in front of other women and internally maligning the standard of a Muslim woman through behaving in a “fun” manner.

3) Tashabbuh (imitation): Like any other religion, there are certain values that are unique to Islam itself that make it stand out amongst the rest. It is for this reason the Holy Prophet (sallallahu 'alaihi wa sallam) forbade us from sacrificing such values for the sake of imitating others (e.g. through fashion shows) under the facade of “fun” and “amusement”. Consider the following hadith:

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ تَشَبَّهَ بِقَوْمٍ فَهُوَ مِنْهُمْ»

The Holy Prophet (sallallahu ‘alaihi wa sallam) said: “He who imitates a group of people is from amongst them.”

4) Lahw: “Lahw” can refer to anything that does not reap any apparent benefit. Although the event in question includes many activities of amusement and fun, it lacks the main essence of any true Islamic gathering, the remembrance of Allah Ta‘ālā. A gathering devoid of such is deprived of the blessings of Allah the Almighty and the company of the angels. The Holy Prophet (sallallahu ‘alaihi wa sallam) said:

إِنَّ لِلَّهِ تَبَارَكَ وَتَعَالَى مَلَائِكَةً سَيَّارَةً، فَضَلًا يَتَّبِعُونَ مَجَالِسَ الذِّكْرِ، فَإِذَا وَجَدُوا مَجْلِسًا فِيهِ ذِكْرٌ قَعَدُوا مَعَهُمْ، وَخَفَّ بَعْضُهُمْ بَعْضًا بِأَجْنِحَتِهِمْ، حَتَّى يَمْلَأُوا مَا بَيْنَهُمْ وَبَيْنَ السَّمَاءِ الدُّنْيَا، فَإِذَا تَفَرَّقُوا عَرَجُوا وَصَعَدُوا إِلَى السَّمَاءِ

Allah has mobile (squads) of angels, who have no other work (to attend to but) to follow the assemblies of Dhikr and when they find such assemblies in which there is Dhikr (of Allah) they sit in them and some of them surround the others with their wings till the space between them and the sky of the world is fully covered, and when they disperse (after the assembly of Dhikr is adjourned) they go upward to the heaven.

It is our humble advice that the hosts of this event rethink their approach in holding such a gathering and further make an effort to have an event that not only conforms to the ideals and principles of Islam, but also creates an environment that brings about fun and enjoyment while maintaining activities involving the remembrance of Allah Ta‘ālā. This includes, but is not limited to recitation of the Quran, a set time for ‘ibādah, lectures about famous Sahabiyyāt, and interactive youth talks that discuss topics relating to the struggles of the young in today’s environment.

Insha-Allah, such an effort will not only bring enjoyment for the

young, but it will also serve as a tool to boost one's imān while simultaneously earning the blessings and pleasure of Allah Ta'ālā.

و حكمه ما أشار إليه بقوله (والكر حرام) مطلقا سواء علي ما اتصف به أو لا، (و رذيلة) خصلة دينية، (عظيمة من العباد) دون المعبود؛ لأنه دليل نسيان العبد خالقه و عجزه و تغافله عن خلقته من ماء مهين...و قد قال صلي الله عليه و سلم: لا يدخل الجنة من كان في قلبه مثقال ذرة من كبر (البريقة المحمودية في شرح الطريقة المحمدية، ج ٣، ص ٧٣، دار الكتب العلمية)؛

(والرابع الجمال) ضد القبح وعن سبويه دقة الحسن (وذلك أكثر ما يجري في النساء) وقد يجري في العلماَن الحسان لانجذاب القلوب يفتخرون ويتكبرون على أرواحهم لنقصان عقولهم؛ لأن الجمال سريع الزوال (وهذا أيضا) كالكبر بالنسب (جهل إذ هو فإن من القناء سريع الزوال) وكل شيء ليس له بقاء فالتكبر به جهل؛ لأنه ليس ملكا لصاحبه، بل يده كيد مستعير سزول في أوانه (لا تنظر إلى ظاهرك نظر البهائم)...البهائم فإن العاقل لا يتفنع به، بل يُجْعَلُ النظر ويتدبر عاقبته وفعله (وأنظر إلى باطنك) أهو معمور بمحافضة شريعة الله وممارسة سنه حبيب الله (نظر العقلاء أولك نطفة مدرة) يفتح وكسر متخيرة بيان لطريقي نظر العقلاء (خرجت من مجرى البؤل)

(البريقة المحمودية في شرح الطريقة المحمدية، ج ٣، ص ١٠١، دار الكتب العلمية)

ورياء اهل الدنيا باظهار السمن و صفاء اللون و اعتدال القامة و حسن الوجه و نظافة البدن و نحوها

(البريقة المحمودية في شرح الطريقة المحمدية، ج ٣، ص ٢٥٢، دار الكتب العلمية)

Sahih Muslim, 149, The Book of Faith

Sunan Ibn Majah, 4182, Book of Zuhd, Chapter of Hayā

Sunan Ibn Majah, 4184, Book of Zuhd, Chapter of Hayā

Sunan Abi Dawud, 4031, Book of Clothing

لهو: (قال شيخنا: قضيتُه اتحادهما وقد فرق بينهما جماعة من أهل الفروق فقيل: اللهو واللعب يشتركان في أنهما اشتغالا بما لا يعنينا من هوى أو طرب حراما أو لا، قيل: (واللهو أعم مطلقا، فاستباح الملهي لهو لا لعب...

قلت: وأصل اللهو الترويح عن النفس بما لا تقتضيه الحكمة. وقال الطرسوسي: اللهو الشيء الذي يلتذ به الإنسان ثم ينفضي، وقيل: ما يشغل الإنسان عما يهيمه، وأما العبث فهو الزكاب أمر غير معلوم الفائدة، وقيل: هو الاشتغال بما ينفع وما لا ينفع؛ وقيل: أن يخلط بعمله لعبا ويقال لما ليس فيه غرض صحيح.

Sahih Muslim, 2689, The Book Pertaining to the Remembrance of Allah, Supplication, Repentance and Seeking Forgiveness

Fatawa Mahmudiyah, vol. 6, pg. 123, Maktabah Mahmudiyah

MEDICAL TREATMENT TO THE OPPOSITE GENDER

Q: Is it sinful to treat the opposite gender while studying medicine and as a doctor? Also, are brands that are not animal cruelty free haram for Muslims?

A: Islam is a dynamic religion that covers all facets of life and takes into account all situations that might arise within a society. The field of medicine is no exception; people throughout the world are always in need of medical attention at some point within their lives. There are even those who require medical assistance every single day. In light of this need, Shari'ah has allowed one to pursue the field of medicine and offer one's service at a hospital in order to fulfill the need of the society by giving aid to such people. However, this does not mean that Shari'ah has not placed rules and conditions that must be followed while pursuing such a career. The laws of intermingling between the sexes are no exception. Allah Ta'ālā says in the Holy Quran:

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَى لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ. وَقُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ (سورة النور، ١٣)

Say to the believing men that they must lower their gazes and guard their private parts; it is more decent for them. Surely Allah is All-Aware of what they do. And say to the believing women that they must lower their gazes and guard their private parts, and must not expose their adornment.

As such, it is imperative for one studying or practicing medicine to try one's best to avoid situations where one must compromise on this command of Allah the Almighty. Unless there is a dire need where the same gender is not available, it will not be feasible for one to treat such a patient. If one is forced to do so, then it is important to keep all interaction as limited as possible.

Islam is a religion that teaches us to be kind and gentle to animals even at the time of slaughter. It is reported that the Holy Prophet (sallallahu 'alaihi wa sallam) said:

وَإِنَّ اللَّهَ كَتَبَ الْإِحْسَانَ عَلَى كُلِّ شَيْءٍ فَإِذَا قَتَلْتُمْ فَأَحْسِنُوا الْقِتْلَةَ وَإِذَا ذَبَحْتُمْ فَأَحْسِنُوا الذَّبْحَ وَلِيُحِدَ أَعْدَكُمْ
شَفَرَتُهُ فَلْيُحَرِّجْ دَبِيحَتَهُ

And when you slaughter, slaughter in a good way. Every one of you should sharpen his knife, and let the slaughtered animal die comfortably.

It is clear from the hadith above that Islam emphasizes good treatment of animals and discourages anything to the contrary. As such, it is makrūh (highly disliked) for the slaughterers to put the animals through unnecessary pain before slaughtering the animal.

Nevertheless, if it can be verified that a certain brand hand-slaughters animals according to the conditions set out by Shari'ah (e.g. taking the name of Allah upon the slaughtered animal and severing three of the four vessels), then it will be permissible for one to eat from the meat of such an animal and it will not make the meat harām for consumption.

Fatawa Uthmani, vol. 1, pg. 169, Maktabah Ma'ariful Quran;

واعلم أن تعلم العلم يكون فرض عين وهو بقدر ما يحتاج لدينه. وفرض كفاية، وهو ما زاد عليه لنفع غيره.
(قوله: وفرض كفاية (إخ) عرفه في شرح التحرير بالمتحتم المقصود حصوله من غير نظر بالذات إلى فاعله. قال: فيتناول ما هو ديني كصلاة الجنازة، ودينوي كالصنائع المحتاج إليها وخرج المسنون؛ لأنه غير متحتم، وفرض العين لأنه منظور بالذات إلى فاعله. اهـ قال في تبيين المحارم: وأما فرض الكفاية من العلم، فهو كل علم لا يستغنى عنه في قوام أمور الدنيا كالطب والحساب
(رد المحتار علي الدر المختار، ج ١، ص ٢٤، إيج ايم سعيد كمبني)

Al-Quran, Surah An-Nur:31

فإن أصاب امرأة جرح أو قرحة في موضع لا يحل للرجل أن ينظروا إليه فلا بأس بأن يعلم امرئ دواء ذلك الجرح... فإن لم يجدوا امرأة تداوي الجرح الذي بها أو القرحة و لم يجدوا علي امرأة تعلم ذلك، و خافوا علي المرأة التي بها الجرح أو القرحة أن تهلك أو يصيبها بلاء أو دخلها من ذلك وجع لا يحتمل، أو لم يكن يداوي الموضوع إلا رجل، فلا بأس بأن يستتر منها كل شيء إلا موضع الجرح أو القرحة ثم يداوي الرجل ويغض بصره بما استطاع عن عورة، و ذات محرم و غيرها في ذلك سواء (كتاب الأصل للإمام محمد الشيباني، ج ٢، ص ٣٢٢-٣٢٣، دار ابن حزم)

[قال (الحصكفي) وشرائها ومداواتها ينظر) الطبيب (إلى موضع مرضها بقدر الضرورة) إذ الشرورات تتقدر بقدرها وكذا نظر قابلية وخشيان ويتنبهي أن يعلم امرأة تداويها لأن نظر الجنس إلى الجنس أخف.

[قال ابن عابدين] (قوله ويتنبهي إلخ) كذا أطلقه في الهداية والختاية. وقال في الجوهرية: إذا كان المرض في سائر بدنها غير الفرج يجوز النظر إليه عند الدواء، لأنه موضع ضرورة. وإن كان في موضع الفرج، فينبغي أن يعلم امرأة تداويها فإن لم توجد وخافوا عليها أن تهلك أو يصيبها وجع لا تختمله يسئروا منها كل شيء إلا موضع البلية ثم يداويها الرجل ويغض بصره ما استطاع إلا عن موضع الجرح اهـ فتأمل الظاهر أن " يتنبهي " هنا للجووب
(رد المحتار علي الدر المختار، ج ٩، ص ٢١٦، دار المعرفة)

و كذا إذا كان بها جرح او قرح في موضع لا يحل للرجال النظر اليه، فلا بأس أن تداويها إذا علمت المداواة...فإن لم توجد امرأة تعلم المداواة و لا امرأة تعلم و خيف عليها الهلاك او بلاء او وجع لا تحمله يداويها الرجل، لكن لا يكشف منها إلا موضع الجرح و يغض بصره ما استطاع، لأن الحمرات الشرعية جاز أن يسقط اعتبارها شرعا لمكان الضرورة (بدائع الصنائع، ج ٦، ص ٩٩٤، دار الكتب العلمية)

Sahih Muslim, 1955, The Book of Hunting, Slaughter, and What May Be Eaten

قال: "ويستحب أن يحد الذابح شفرته" لقوله عليه الصلاة والسلام: "إن الله تعالى كتب الإحسان على كل شيء، فإذا قتلتم فأحسنوا القتل، وإذا ذبحتم فأحسنوا الذبحة، وليحد أحدكم شفرته وليرح ذبيحته" ويكره أن يضجعها ثم يحد الشفرة لما روي عن النبي عليه الصلاة والسلام: "أنه رأى رجلا أضجع شاة وهو يحد شفرته فقال: لقد أردت أن تميتها موتات، هلا حددتها قبل أن تضجها"...والحاصل أن ما فيه زيادة إيلام لا يحتاج إليه في الذكاة مكروه... (الهداية، ج ٤، ص ٨٣٤، مكتبة رحمانية)

قال زين الدين الرازي: ويستحب إحداث السكن قبل الإضجاع...وكل زيادة تعذيب لا يحتاج إليها مكروه، حصر المذبوح برجله إلى المذبح، وسلخه قبل أن يتم... (قال العيني) لقوله - صلي الله عليه وسلم - إن الله كتب الإحسان على كل شيء، فإذا قتلتم فأحسنوا القتل، وإذا ذبحتم فأحسنوا الذبحة، وليحد أحدكم شفرته، وليرح ذبيحته، رواه مسلم، وأحمد، وغيرهما...قوله: وكل زيادة تعذيب لا يحتاج إليها مكروه؛ لأنه تعذيب الحيوان بلا فائدة (المسبوك علي منحة السلوك في شرح تحفة الملوك، ج ٤، ص ١٩-٢٩)

Legal Rulings on Slaughtered Animals by Mufti Muhammad Taqi Uthmani, pg. 15 & 20, Maktabah Darul-Uloom Karachi;

وَالذَّبْحُ هُوَ فَرْقِ الْأَوْدَاجِ وَمَحَلُّهُ مَا بَيْنَ اللَّبَّةِ وَاللَّحْيَيْنِ يَقُولُ النَّبِيُّ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ - «الذَّكَاءُ مَا بَيْنَ اللَّبَّةِ وَاللَّحْيَةِ» أَيْ مَحَلُّ الذَّكَاءِ مَا بَيْنَ اللَّبَّةِ وَاللَّحْيَيْنِ وَرُوي الذَّكَاءُ فِي الْحَلْقِ وَاللَّبَّةِ وَالنَّخْرُ فَرْقِ الْأَوْدَاجِ وَمَحَلُّهُ أَمْرُ الْحَلْقِ، وَلَوْ نَحَرَ مَا يُذْبَحُ وَذَبَحَ مَا يُنَحَّرُ يَحِلُّ لِيُوجِدَ فَرْقِ الْأَوْدَاجِ وَلِكَيْتُهُ يَكْفُرُ؛ لِأَنَّ السُّنَّةَ فِي الْإِبِلِ النَّخْرُ وَفِي غَيْرِهَا الذَّبْحُ... وَلَئِنْ الْمَقْصُودُ إِخْرَاجُ الدَّمِ الْمَسْفُوحِ وَتَطْيِيبُ اللَّحْمِ، وَذَلِكَ يَحْضُلُ بِقَطْعِ الْأَوْدَاجِ فِي الْحَلْقِ كُلِّهِ، ثُمَّ الْأَوْدَاجُ أَرْبَعَةٌ: الْخُلُقُومُ، وَالْفَرْعِيُّ، وَالْعِرْقَانِ الدَّانِ بَيْنَهُمَا الْخُلُقُومُ وَالْفَرْعِيُّ، فَإِذَا فَرَى ذَلِكَ كُلَّهُ فَقَدْ أَقْبَلَ بِالذَّكَاءِ يَكْمَالِهَا وَسَتَبَهَا وَإِنْ فَرَى الْبَعْضَ دُونَ الْبَعْضِ فَيَجِدُ أَيْ عَنِيْقَةً - رَضِيَ اللَّهُ عَنْهُ - إِذَا قَطَعَ أَكْثَرَ الْأَوْدَاجِ وَهُوَ ثَلَاثَةٌ مِنْهَا أَيْ ثَلَاثَةٌ كَانَتْ وَتَرَكَ وَاحِدًا يَحِلُّ، وَقَالَ أَبُو يُوسُفَ - رَحِمَهُ اللَّهُ -: لَا يَحِلُّ حَتَّى يُقَطَعَ الْخُلُقُومُ وَالْفَرْعِيُّ، وَأَعَادَ الْعِرْقَيْنِ، وَقَالَ مُحَمَّدٌ - رَحِمَهُ اللَّهُ -: لَا يَحِلُّ حَتَّى يُقَطَعَ مِنْ كُلِّ وَاحِدٍ مِنْ الْأَرْبَعَةِ أَكْثَرُ (بدائع الصنائع في ترتيب الشرائع، ج ٥، ص ١٤، دار الكتب العلمية)

(وَحَلَّ الْمَذْبُوحُ (بِقَطْعِ أَيْ ثَلَاثٍ مِنْهَا) إِذْ يَلَاكُزُ حَتْمُ الْكُلِّ (رد المحتار علي الدر المختار، ج ٦، ص ٤٩٢، إيج ايم سعيد كميني)

قال: "ومن بلغ بالسكين النخاع أو قطع الرأس كره له ذلك وتوكل ذبيحته"...وهذا لأن في جميع ذلك وفي قطع الرأس زيادة تعذيب الحيوان بلا فائدة وهو منهى عنه. والحاصل: أن ما فيه زيادة إيلام لا يحتاج إليه في الذكاة مكروه. ويكره أن يجر ما يريد ذبحه برجله إلى المذبح، وأن تنزع الشاة قبل أن تبرد: يعني تسكن من الاضطراب، وبعده لا أم فلا يكره النزع والسلك، إلا أن الكراهة لمعنى زائد وهو زيادة الألم قبل الذبح أو بعده فلا يوجب التحريم فلهذا قال: تؤكل ذبيحته. (الهداية، ج ٤، ص ٧٣٤-٨٣٤، مكتبة رحمانية)

FIFTY WOMEN - ONE MAN

Q: Have the ‘Ulamah devised methods whereby in the end times a man has the ability to look after 50 women? ...4. women will increase in number and men will decrease in number so much so that fifty women will be looked after by one man. (Book #3, Hadith #81) Sahih Al-Bukhari. If it does not concern us at present we should at least be devising mechanisms whereby this future concern can be troubleshootted, because already there are voices offering their solu-

tions; solutions which may not be right and Halal and whereby a vast multitude of Muslims will be led astray.

“Malakat Yad And Akhirul Zaman” By Sheikh Imran Hosein -He is saying that in the end times it will become a necessity for women to give up their freedom, arguing from Daroora, in order to obtain the protection of a man; and that such a thing can be condoned in Shari’ah under the rules of necessity. The Europeans concocted such a scheme when in return for the forgiveness of debts they would pledge labor, become slaves, presumably until the debt was repaid: “Debt bondage (also known as debt slavery or bonded labor) is a person’s pledge of their labor or services as security for the repayment for a debt or other obligation. The services required to repay the debt may be undefined, and the services’ duration may be undefined. Debt bondage can be passed on from generation to generation.” http://en.wikipedia.org/wiki/Debt_bondage

In our instance the women would be selling their freedom for protection and provision. Is it possible for one to give up one’s freedom in order to become the slave of another human in order to receive some material benefit? I do not expect this question to be answered in short order, it is a question that may require extensive ijthihad on the part of the elite of the elite ‘Ulama. But it is a topic that must be broached and then plumbed if we are to head off catastrophe in the end times, especially since women are being hooked onto Lesbianism as the alternative lifestyle, a life free of men where women get to do what they want.

Our girls are the most vulnerable, especially in the West, as they are growing up bathed in this kind of culture. As the male population shrinks therefore we have to have mechanisms that preserve the traditional healthy way of life in the midst of alternatives and unneeded “antidotes.” If there are no ready answers please do forward this

question up the chain of command until it reaches someone with insight into the matter.

A : Before we answer your query, it is important to keep in mind that although Shaykh Imran Hosein is a knowledgeable person, he is known to have many opinions that conflict with traditional Islamic texts and the opinions of many ‘Ulamā, especially in regards to future events surrounding the signs of the last hour. We have conducted an enquiry about Shaykh Imran Hosein and found that it is unsuitable to listen to his talks. Please refer to the following links for more information:

http://askimam.org/public/question_detail/27634

http://www.askimam.org/public/question_detail/28659

Since your query deals with the meaning and interpretation of a hadith and a solution provided for it based on that interpretation, we shall first explain the meaning of the hadith in question as explained by the muhaddithūn:

The hadith in reference is as follows:

عَنْ أَنَسٍ بْنِ مَالِكٍ، قَالَ: لأَحَدُنَّكُمْ حَدِيثًا لَا يُحَدِّثُكُمْ أَحَدٌ بَعْدِي، سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: ” مِنْ أَشْرَاطِ السَّاعَةِ: أَنْ يَقِلَّ الْعِلْمُ، وَيَظْهَرَ الْجَهْلُ، وَيَظْهَرَ الزُّنَا، وَتَكْثُرَ النِّسَاءُ، وَيَقِلَّ الرِّجَالُ، حَتَّى يَكُونَ لِحَمْسِينَ امْرَأَةً الْقَيِّمُ الْوَاحِدُ ”

Anas (radiyallahu ‘anhu) narrates: I will narrate to you a hadith that none other than I will tell you about after it. I heard Allah’s Messenger (sallallahu ‘alaihi wa sallam) saying: From among the signs of the Hour are (the following): Religious knowledge will decrease (by the death of religious learned men). Ignorance will prevail. There will be prevalence fornication. Women will increase in number and men will decrease in number, so much so that there will be one (male) caretaker for fifty women.

While commenting on the portion of this hadīth regarding the number of women, Hafiz ibn Hajar al-ʿAsqalānī (rahimahullah) mentions in his famous commentary on Sahīh al-Bukhārī, Fath al-Bārī:

يُحْتَمَلُ أَنْ يُرَادَ بِهِ حَقِيقَةُ هَذَا الْعَدَدِ أَوْ يَكُونُ مَجَازًا عَنِ الْكَثْرَةِ وَيُؤَيِّدُهُ أَنَّ فِي حَدِيثِ أَبِي مُوسَى وَتَرَى الرَّجُلَ الْوَاحِدَ يَتَّبَعُهُ أَرْبَعُونَ امْرَأَةً

It is possible that the actual amount (i.e. fifty women) is intended or that it is a figurative expression simply indicating an increase (in the number of women and not the actual number of women). This is substantiated by the hadīth of Abu Mūsā (radiyallahu ʿanh) “and you will see one man being followed by forty women” (i.e. a different number is used there in order to show an increase as well).

ʿAllamah ʿAynī (rahimahullah) also mentions this in his book ʿUmdat al-Qārī: A commentary on Sahīh al-Bukhārī.

Hafiz ibn Hajar (rahimahullah) further comments on the cause behind such a disorder in the number of men and women by quoting the words of Imam al-Qurtubī from his book At-Tadhkirah bi Ahwāl al-Mawtā wa Umūr al-Ākhirah:

يُحْتَمَلُ أَنْ يُرَادَ بِالْقِيَمِ مَنْ يَقُومُ عَلَيْهِنَّ سِوَاهُ كُنَّ مَوْطُوءَاتٍ أَمْ لَا وَيُحْتَمَلُ أَنْ يَكُونَ ذَلِكَ يَقَعُ فِي الزَّمَانِ الَّذِي لَا يَبْقَى فِيهِ مَنْ يَقُولُ اللَّهُ اللَّهُ فَيَتَزَوَّجُ الْوَاحِدُ بَعِيرٍ عَدَدَ جَهْلًا بِالْحُكْمِ الشَّرْعِيِّ

“It is possible that ‘caretaker’ here refers to someone who will look after the women whether they are slave-women or not. It is also possible that such a situation will take place in a time where there will be no one left to say ‘Allah Allah’; thus, one person will marry without (any restriction in) number due to his ignorance of the Sharʿī ruling.” Based on the explanations provided above, we would like to highlight the following points:

(1) The number of women being fifty is not definite. It is simply being used to refer to a high number of women without attribution to a specific amount.

(2) It is not definite whether men will be caretakers of women who are regarded as slave-women. It is highly likely that this is not the case.

(3) The beginning portion of the hadīth points to the fact that religious knowledge will become scarce, due to which many men might marry (not enslave) more than four women out of sheer ignorance of legal rulings.

Now that we have discussed the portion of the hadīth under question, we shall continue with answering the rest of your questions.

“If it does not concern us at present we should at least be devising mechanisms whereby this future concern can be troubleshooted, because already there are voices offering their solutions”

It is often heard by many medical doctors that prevention is key when dealing with sicknesses, not treatment. Similarly, the first portion of this hadīth highlights the fact that these are all signs of the Day of Judgment. This hadīth also mentions a prevalence of zinā (fornication); another narration of the same hadīth mentions an increase in the consumption of alcohol as well. There are numerous other signs mentioned throughout a number of ahādīth warning us of the dangers we might face in regards to our imān in the future. The purpose of such ahādīth is to remind us that we should mend our ways and keep our attention focused on the final day, not so we can provide solutions to problems that may or may not happen based off of a possible interpretation of a hadīth.

Furthermore, the hadith clearly states that a man will become the caretaker of many woman. Why do we have to force ourselves to fit a certain solution regarding how this will play out? If Allah Ta'ālā chooses such an event to take place, it will happen regardless of how we choose to interpret it. It may be through the means of a legal nikāh or through some other means unknown to us at this time. Our job is to focus on the big picture; worshipping Allah Ta'ālā and fixing ourselves before the era of fitan arises and the doors of tawbah are closed for eternity on this Earth.

Allah the Almighty says in the Holy Quran:

وَلَا تَكْسِبُ كُلُّ نَفْسٍ إِلَّا عَلَيْهَا وَلَا تَزِرُ وَازِرَةٌ وِزْرَ أُخْرَىٰ ثُمَّ إِلَىٰ رَبِّكُم مَّرْجِعُكُمْ فَيُنَبِّئُكُم بِمَا كُنتُمْ فِيهِ تَخْتَلِفُونَ

And every soul earns not [blame] except against itself, and no bearer of burdens will bear the burden of another. Then to your Lord is your return, and He will inform you concerning that over which you used to differ.

“The Europeans concocted such a scheme when in return for the forgiveness of debts they would pledge labor, become slaves, presumably until the debt was repaid...Is it possible for one to give up one’s freedom in order to become the slave of another human in order to receive some material benefit? “

If anyone is well-acquainted with the texts of the Quran and the ahādīth, they would be aware of the fact that Islam sets out to emancipate all slaves through various means, not to bring free people back into the realm of bondage. There are a huge number of Qur’anic verses and Holy Prophetic traditions which elaborate on the virtues and merits of setting slaves free.

In juristic injunctions, pretexts have been looked for to emancipate slaves: expiation for violating fast, for murder, for violating oaths and vows, etc. - in all these cases the first compulsory command is to emancipate a slave.

The concept known as debt bondages was nothing other than outright oppression. If the Shari'ah makes it a goal to free all slaves, how can one say that we should go against these ideals by enslaving the poor and labelling it as a "solution"? The collective teachings of the Qur'an and Hadith lead us to believe that emancipating them is more meritorious than enslavement. Moreover, attributed slavery (i.e. where a person was originally free) was restricted to prisoners of war only during the time of the Holy Prophet (sallallahu 'alaihi wa sallam). It is for this reason that it is inappropriate to even suggest enslaving free Muslim women for such a cause. "He is saying that in the end times it will become a necessity for women to give up their freedom, arguing from Daroora...it is a question that may require extensive ijtiḥad on the part of the elite of the elite 'Ulama."

It is important to understand that the concept of dharūrah is only relevant to those times where the dharūrah exists. Since the concept of selling a freed person is impermissible in Shari'ah, deriving a ruling based off of dharūrah without knowing the reality of the actual situation is not enough to give leeway for it. It is not the job of the 'Ulamā today to determine a ruling based on dharūrah for a need that is unknown, let alone a need that is currently non-existent. We should rather concern ourselves with the problems that face us today. As mentioned before, the hadith in question highlights the signs of Yaw Al-qiyāmah whose purpose is mainly to remind us that we should be ready for the trials ahead, not that we should make preparations based off of unknown dharūrāt for something that may or may not happen the way we presume.

Furthermore, it is clearly mentioned in the hadith that this event will occur during times of fitnah where knowledge will become scarce. This scarcity of knowledge is explained by the Holy Prophet (sallallahu alaihi wa sallam) himself in the following words:

إِنَّ اللَّهَ لَا يَقْبِضُ الْعِلْمَ انْتِزَاعًا يَنْتَزِعُهُ مِنَ الْعِبَادِ، وَلَكِنْ يَقْبِضُ الْعِلْمَ بِقَبْضِ الْعُلَمَاءِ، حَتَّى إِذَا لَمْ يَبْقَ عَالِمًا اتَّخَذَ النَّاسُ رُءُوسًا جُهَالًا، فَسُئِلُوا فَأَفْتَوْا بِغَيْرِ عِلْمٍ، فَضَلُّوا وَأَضَلُّوا

“Allah does not take away the knowledge, by taking it away from (the hearts of) the people, but takes it away by the death of the ‘Ulamā till when none of the (religious learned men) remains, people will take as their leaders ignorant persons who when consulted will give their verdict without knowledge. So they will go astray and will lead the people astray.”

If such will be the situation at this time, where the ‘Ulamā will be no more and the ignorant will be prevalent, how can anyone expect those who live in such a time to abide by the laws of ‘Ulamā in the past, especially when the people themselves will be ignorant of the most simple of laws such as the limit of marrying only four women (as stated by Imam al-Qurtubī in his commentary on this hadith)?

“Our girls are the most vulnerable, especially in the West, as they are growing up bathed in this kind of culture.”

The laws of Islam are designed to protect the chastity of young men and women by providing guidelines that hinder all possibilities of indecent acts taking place.

As such, if someone truly desires to save their children from the negative effects of western culture, then they should instill the teachings of the Quran and ahadith in the hearts of their children and promote an environment free from external influences that become

an obstruction to pure Islamic values such as the effects of television, media, and peer pressure from social circles that do not contain any signs of Deen. May Allah Ta'ālā protect us all from the trials that lie ahead and grant us success in this life and the hereafter. Ameen.

Sahih al-Bukhari, 81, The Book of Knowledge
Fath al-Bārī, vol. 1, pg. 218, Darul Hadith

قوله: (لخمسین امرأة) یَحْتَمِلُ أَنْ يُرَادَ بِهَا حَقِيقَةُ هَذَا الْعَدَدِ، وَأَنْ يُرَادَ بِهَا كَوْنُهَا مَجَازًا عَنِ الْكَثَرَةِ، وَلَعَلَّ السَّرَّ فِيهِ أَنَّ الْأُرْبَعَةَ فِي كَمَالِ نَضَابِ الرُّؤُجَاتِ، فَاعْتَبَرَ الْكَمَالَ مَعَ زِيَادَةِ وَاحِدَةٍ عَلَيْهِ، ثُمَّ اعْتَبَرَ كُلَّ وَاحِدَةٍ بِعَشْرِ أَمْثَالِهَا لِيَصِيرَ فَوْقَ الْكَمَالِ مُبَالَغَةً فِي الْكَثَرَةِ، أَوْ لِأَنَّ الْأُرْبَعَةَ مِنْهَا يُمْكِنُ تَأْلُفُ الْعَشْرَةِ، لِأَنَّ فِيهَا وَاحِدًا أَوْ اثْنَيْنِ وَثَلَاثَةً وَأُرْبَعَةَ، وَهَذَا الْمَجْمُوعُ: عَشْرَةٌ، وَمِنَ الْعَشْرَاتِ الْمُنَاتِ، وَمِنَ الْمُنَاتِ الْأَلُوفُ، فَهِيَ أَصْلُ جَمِيعِ مَرَاتِبِ الْأَعْدَادِ، فَزِيدَ فَوْقَ الْأَصْلِ وَاحِدٌ آخَرُ ثُمَّ اعْتَبَرَ كُلَّ وَاحِدَةٍ مِنْهَا بِعَشْرِ أَمْثَالِهَا أَيْضًا تَأْكِيدًا لِلْكَثَرَةِ، وَمُبَالَغَةً فِيهَا.

(عمدة القاري، ج ٢، ص ٦٣، المكتبة التوفيقية)

Fath al-Bārī, vol. 1, pg. 218, Darul Hadith
Sahih al-Bukhari, 5231, The Book of Nikāh
Al-Quran, al-An'ām:164

Ma'āriful Quran, “An Objection and its Rebuttal”, Surah Muhammad, verse 4

[قال الشلبي] (قَوْلُهُ فِي الثَّمَنِ لَمْ يَجَزْ بِنَيْحِ الْمَيْتَةِ إِنَّهُ) قَالَ الْأَنْفَاقِيُّ قَالَمَا بِنَيْحِ الْمَيْتَةِ وَالذِّمُّ بَاطِلٌ وَكَذَلِكَ بِنَيْحِ الْحُرِّ وَكَذَاكَ لِإِنْعِدَامِ حَقِيقَةِ النَّيْحِ؛ لِأَنَّهَا مُبَادَلَةٌ أَلْمَالِ عَلَى التَّرَاضِي وَهَذِهِ الْأَشْيَاءُ لَيْسَتْ بِمَالٍ عِنْدَ أَحَدٍ مِمَّنْ لَهُ دِينَ سَخَاوِي قَبِيضُ النَّيْحِ وَلَا يُفِيدُ الْجَلْكَ (تبيين الحقائق، ج ٤، ص ٤٤، مكتبة إمدادية)
وَكَوْنُهُ مَقْدُورُ التَّسْلِيمِ فَلَمْ يَتَغَيَّرْ بِنَيْحِ الْمَعْدُومِ وَمَا لَهُ خَطَرُ الْعَدَمِ كَالْحَمْلِ وَاللَّبَنِ فِي الصَّرْعِ وَالتَّمَرِّ قَبْلَ طُهُورِهِ وَهَذَا الْعَبْدُ فَإِذَا هُوَ جَارِيَةٌ، وَلَا بِنَيْحِ الْحُرِّ (رد المحتار علي الدر المختار، ج ٤، ص ٥٠٥، إيج ايم سعيد كمبني)

Sahih al-Bukha

CAN WOMEN USE NAIL POLISH?

Q: Can girls wear nail polish while having their periods? Because they don't have to pray or need of wudhu they can use nail polish?

A: In a normal situation, wudū and ghusl with nail polish will be invalid. Though women may wear nail polish during their periods, as they are pardoned from salah, it is still mustahab (preferable) for a woman in her period at the time of salah to perform wudū and engage in zikr where she normally performs her salah in the house. This practice also ensures that she stays in the habit of performing salah.

WOMEN GIVING DAWAH

Q: Is there any specific ways a woman can give Dawah, how important is it for woman to give Dawah in Islam, is there any restrictions/conditions? Does a woman obey her husband or can she do as she pleases and give Dawah without disturbances?

A: Daw'ah has been the foremost responsibility of every prophet. Among the three missions of Rasulullah ﷺ, Da'wah has been enumerated through the recitation of the Qur'an-e-Kareem. Every Muslim, male and female is tasked with the responsibility of Da'wah. However, while acknowledging the great merits of Da'wah, we should also guard ourselves from all forms of fitnah especially when using modern technology such as the internet etc. for Da'wah. The strong possibility of fitnah through facebook, chat rooms, etc. cannot be ignored. Many sincere people have used these forms for Da'wah but got caught up in some form of illicit and immoral relationship with the opposite gender.

The principle of Shari'ah is that preference must be given to basic responsibilities. A married woman's basic responsibility is towards her husband and family. In giving Da'wah, it is not permissible for a married person to infringe on the marital rights. It is therefore best for a woman to consult with her husband before engaging in any Da'wah activity to ensure he is also comfortable and his rights are not compromised.

هُوَ الَّذِي بَعَثَ فِي الْأُمِّيِّينَ رَسُولًا مِنْهُمْ يَتْلُو عَلَيْهِمْ آيَاتِهِ وَيُزَكِّيهِمْ وَيُعَلِّمُهُمُ الْكِتَابَ وَالْحِكْمَةَ [سورة الجمعة، ٢].
فتاوى محمودية، باب التبليغ، ج ٤، ص ٨٦٢، جامعة فاروقية
طلب العلم فريضة علي كل مسلم (سنن ابن ماجه، باب فضل العلماء والحث علي طلب العلم، ص ٢٠٢، قديمي)

WHAT IS THE STATUS OF YOUR STATUS?

Q: Is it Islamically correct to say, "Happy Birthday!" On someone's date of birth? I have noticed many people write such terms on their status message on multiple social networking sites! I have also noticed many people put their nieces or nephews or worse their own photos as display pictures, especially females, is this permissible? If it's not then how can I tactfully tell them so?

A: There is no doubt that social networking sites have become an important part of people's lives. This is evidenced from the millions of users that are part of these online communities. While social networking sites can be used for good and/or permissible works such as dawah, business promotions, and breaking news - they are more often than not used for impermissible purposes such as intermingling, browsing photos, chatting, and online relationships. As a result, only a minority refrain themselves from getting involved in impermissible uses of social networking.

In addition to the above impermissible uses, there are other serious harms of social networking sites - as you have correctly mentioned in your inquiry – such as the following:

Using status messages for impermissible things: An enormous amount of time is wasted by users in reading the status messages of their friends. In addition, revealing information about one's personal activities allows others to make obscene comments, cyberstalk and spy on you. A number of documented incidents as noted later in this article prove that such harassment is increasing at an alarming rate on social networking sites.

What is the point of updating your status – when there are so many inherent risks to your person and reputation in doing so?

Posting photos on social networking sites: Many users add photos of themselves as icons and also upload and share photos of themselves while going about their day, or events they attend and so on.

The position of the Darul Iftaa is that it is not permissible to have digital photos of yourself, male or female on such sites. This impermissibility of photos is further exacerbated when they include pictures of women due to numerous negatives:

a.) It allows mischievous people the ability to anonymously write obscene comments, cyber-stalk, and harass women. This is not hearsay or a mere conjecture. There have been a number of incidents where obscene comments have even driven some young women to take their own lives as well.

b.) According to numerous references, these photos are also photo-shopped and modified to put them in embarrassing and compromising situations. Would any decent person, male or female, want such pictures of them circulating online?

c.) The increasing prevalence of such online harassment has led to laws by even secular governments to punish such behavior. An example of this is the law in India, governed by the Information Technology Act, Section 67 which prohibits and punishes such actions.

d.) In fact, one book mentions a 17 year old Muslim girl who wears hijab, had her and her sister's photo taken from her page and put on naked bodies in an effort to ridicule and harass her.

It is clear from the evidence cited above that in addition to being impermissible, it is not in the best interest of anyone to post their photos online. It is inconceivable that anyone, much less a Muslim, would want their photos to be cropped, photoshopped and displayed in obscene ways or ridiculed.

من عمل عملاً ليس عليه أمرنا فهو ردّ [i]

صحيح مسلم، الرقم: ٨١٧١

[ii] من تشبه بقوم فهو منهم

سنن أبي داود، الرقم: ١٣٠٤

[iii] Hindustan Times, (September 2nd, 2012)

[iv] Stephens, Kay. Cyberslammed: Understand, Prevent, Combat and Transform The Most Common Cyberbullying Tactics. (sMashup Press, 2012), pg. 48

[v] Hile, Lorie. Bullying (Teen Issues). (Heinemann-Raintree, 2012), pg. 15

[vi] Shariff, Shaheen. Cyber-Bullying: Issues and Solutions for the School, the Classroom and the Home. (Routledge, 2008), pg. 64

[vii] Clark, Schofield Lynn. The Parent App: Understanding Families in the Digital Age. (Oxford University Press, 2013), pgs. 108-109

PARENTS OR MARRIAGE?

Q: I have read a lot of questions and their answers but do not understand the answers. It concerns those complaining about their parents, some are willing to marry but parents oppose and others want to study ilm in a darul uloom (which is also a better environment to live instead of hearing tv all day/night) but parents oppose. The replies which were given dealt only with the high status of parents in islam and the virtues of either ilm or nikah in their respective cases. But the answer/fatwa doesn't really inform the person in dilemma what to do. I also want to add an anecdote which can be found in fazail e sadaqat about the story of "Al sabti bin Haroun Ar Rashid" (ra). He left his father as his father was getting inclined towards the dunya. And it is not a sin. My question is, today, most houses have TV, families enter, no parda, invitation to mixed gatherings etc...living a pious life, adopting taqwaa is challenging. The pressure comes from the irreligious family.

A: The question you ask is indeed an important issue for many young Muslims of today. However, the dynamics of a person facing this dilemma from a Shar'ī perspective does not permit issuing a single ruling.

In principle, a Muslim is bound to obey his parents and give due consideration to their advice as long as it does not lead him to sin. Rasūlullāh (sallAllāhu 'alayhi wasallam) said:

لا طاعة لمخلوق في معصية الله

"There is no obedience to creation in the disobedience to Allah."
With regards to non-Muslim parents, Allah Ta'ālā says:

إِنْ جَاهَدَاكَ عَلَى أَنْ تُشْرِكَ بِي مَا لَيْسَ لَكَ بِهِ عِلْمٌ فَلَا تُطِعْهُمَا وَصَاحِبُهُمَا فِي الدُّنْيَا مَعْرُوفًا

“If they put pressure on you to associate with Me that of which you have no knowledge, do not obey them. Yet, keep their company in the world in kindness.” (Qur’an, 31:15)

A person who is faced with the dilemma you refer to has to assess his situation:

Is his parents’ hindrance to his marriage leading him to sin and disobedience? Is not leaving his home for a Dārul ‘Ulūm or its equivalent leading to sin?

If a person can delay the marriage on his parents request without any fear of falling into temptation and sin, he must give due consideration to his parents’ advice and make a collective decision with them. If, on the other hand, he knows he will not be able to save himself from sin if he did not get married, it will be necessary for him in this case to disregard his parents’ advice and marry. Obviously, this will only be after exhausting all avenues to avoid sin, like fasting continuously. Similarly, if a person is in a situation that while observing his parents’ guidance and advice on whether to attend a Dārul ‘Ulūm or not, he can stay safe from sins, he must negotiate the decision with his parents, giving due consideration to their advice. But if he strongly feels that he cannot avoid sins, like the ones you referred to in your question, without attending an institution like a Dārul ‘Ulūm, he will have to act upon this feeling and attend the institution. This is a broad outline of a complex and multidimensional issue. It is important for a young person to have connection with learned scholars and shuyūkh who he can confide in and whose advice on such issues he can trust. Only in this way can he be equipped to make the right decision in how best to deal with his parents in such situations and on what route to take.

LISTEN TO MY MOTHER OF FATHER?

Q:What do I do if my mom wants me to do something and my dad has ordered me not too?

A : At the outset, it is important to understand that Allah Ta'ālā has ordered to us to respect both parents at all times: He the Almighty says in the Holy Quran:

وَقَضَىٰ رَبُّكَ أَلَّا تَعْبُدُوا إِلَّا إِيَّاهُ وَبِالْوَالِدَيْنِ إِحْسَانًا ۖ إِنَّمَا يُبَلِّغَنَّ عَنْكَ الْكِبَرُ أَحَدُهُمَا أَوْ كِلَاهُمَا فَلَا تَقُلْ لَهُمَا أُفٌ وَلَا تَنْهَرْهُمَا وَقُلْ لَهُمَا قَوْلًا كَرِيمًا (32) وَأَخْفِضْ لَهُمَا جَنَاحَ الذُّلِّ مِنَ الرَّحْمَةِ وَقُلْ رَبِّ ارْحَمْهُمَا كَمَا رَبَّيَّانِي صَغِيرًا

And your Lord has decreed that you worship none but Him and do good to parents. If either of them or both reach old age, do not say to them ‘uff’ (a word of anger or contempt) and do not scold them. And address them with respectful words, and submit yourself before them in humility out of compassion and say, “My Lord, be merciful to them as they have brought me up in my childhood.” [Al-Quran, Surah Al-Isrā, 23-24]

As such, in these situations it is best to first make an attempt to reconcile and find a middle path that would please both parents instead of foregoing the request of one for the sake of the other. If you are unable to do so, then you must follow the decision of your father while maintaining the respect of your mother as well.

The Holy Prophet (sallallahu ‘alaihi wa sallam) greatly stressed the importance of giving respect to one’s mother and maintaining good ties with her. Consider the following hadīth:

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ: جَاءَ رَجُلٌ إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: يَا رَسُولَ اللَّهِ، مَنْ أَحَقُّ النَّاسِ بِحُسْنِ صَحَابَتِي؟ قَالَ: «أُمُّكَ» قَالَ: تُمَّ مَنْ؟ قَالَ: «تُمَّ أُمُّكَ» قَالَ: تُمَّ مَنْ؟ قَالَ: «تُمَّ أَبُوكَ»

Abu Hurairah (radiyallahu ‘anhu) narrates: A man came to Allah’s Messenger and said, “O Allah’s Messenger ! Who is more entitled to be treated with the best companionship by me?” The Prophet said, “Your mother.” The man said. “Who is next?” The Prophet said, “Your mother.” The man further said, “Who is next?” The Prophet said, “Your mother.” The man asked for the fourth time, “Who is next?” The Prophet said, “Your father. “

If you are faced with a situation where your mother will be displeased by your decision to obey your father’s request, then you must kindly engage her and never retort to any comments she might make in the state of displeasure. If she shows her disapproval by directly approaching you then you should observe patience and listen to her intently.

It is important to note that this is only the case in regards to situations where the requests made by your parents do not contradict the commands of Shari’ah. If either of them ask you to do something that will require you to break the laws of Shari’ah, then it is incumbent on you to deny such a request in a polite and respectful manner. May Allah Ta’ālā keep you steadfast on this Deen and grant you and your parents success in this life and the hereafter.

Fatawa Haqqaniyyah, vol. 2, pg. 448, Jami’ah Darul ‘Uloom Haqqaniyyah

Fatawa Mahmudiyyah, vol. 19, pg. 39, Darul Iftaa Jami’ah Faruqiyyah

Imdadul Fatawa, vol. 4, pg. 370, Maktabah Darul ‘Uloom

Sahih al-Bukhārī, 5971, The Book Of Manners

Fatawa Mahmudiyyah, vol. 19, pg. 39, Darul Iftaa Jami’ah Faruqiyyah

COLLEGE GUIDELINES

Q: Living in a modern environment where one goes to college and must interact with other genders, what are some guidelines for these interactions? Specifically, is it allowed for one to directly look at the face (or eyes) of a non-mahram woman while talking to that person? Especially this problem can occur if one has a college professor who is a female and it is seen as bad if one does not make eye contact while talking. If that is not allowed, does one have to look down while a non-mahram is talking to that person? Also, is it allowed for one to email or text (etc) their female professor if it relates only to work? Please provide some guidance.

A: It is common knowledge how difficult it is for one to protect his Īmān in the college and university environment. With the co-ed system, it is very difficult for one to abide by the laws of Shari'ah and there is great fear of one falling into fitnah. A Muslim's Īmān demands that he should not put himself in a situation where committing sins is highly probable, just as the intellect demands that a person should put himself in a situation where physical harm is highly probable.

Shari'ah knows our vulnerability while being in an environment saturated with such fitnah. Let alone interacting with the opposite gender, the mere presence of a Muslim in such an environment may be detrimental to his Īmān. That is why Shari'ah has taken a harsh stance with regards to interacting and dealing with the opposite gender. It aims to tackle the problem from the root. Although acquiring education is important for Muslims, it should not be done at the expense of the teachings of Islam. Whilst one's intentions of acquiring knowledge may be noble, it should always be remembered that the commandments of Shari'ah hold precedence over everything

else. One may be studying with the intention of serving the Muslim community, hence gaining huge rewards. However, if in doing so, if he is compromising the dictates of Shari'ah, then there is no good in studying in such a manner.

Due to the evident fact that no co-ed institutions are free from open violation of Shari'ah and they are breeding grounds of fitnah, there is high chance that one would fall into some kind of fitnah or violation of Shari'ah. Therefore, it would be advisable for one to study in a boys only college/university. If such an option is not available, then you should try to undertake your studies through correspondence.

If one has no alternative but to study in a coeducation institute, he is certain that he has the firmness and resolve to stay away from harām in such a place, he fully understands the teachings of Islam regarding interacting with the opposite gender and is also aware of the dangers of studying at such a place, then only will it be permissible for him to study at such a place. He should, however, at all times be firm and particular about the teachings of Islam and he should be constantly aware and vigilant lest Shaytaān tricks and misleads him.

Allah, the Almighty, commands the Believers to lower their gaze. He says:

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَى لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ (03)

“Tell the believing men to lower their gaze, and protect their private parts. That is purer for them. Verily, Allāh is All-Aware of what they do.” (Quran 24:30)

“And do not go close to adultery; surely it is an indecency and an evil way.” (Quran 17:32).

Usāmah ibn Zaid Radiyallāhu ‘Anhu narrates that the Rasullullah Sal-

lallāhu ‘Alayhi Wa Sallam said, “I have not left behind any trial more harmful to men than women.”

Jarīr Ibn Abdillāh Radiyallāhu ‘Anhu said: I asked Rasulullāh Sallallāhu ‘Alayhi Wa Sallam about unintentional glance (at non-related women). Rasulullāh Sallallāhu ‘Alayhi Wa Sallam commanded me to turn away my eyes.

Buraidah Radiyallāhu ‘Anhu says that Rasulullāh Sallallāhu ‘Alayhi Wa Sallam said to Alī Radiyallāhu ‘Anhu: ‘O Alī! Do not cast a successive glance after the first (unintentional) glance. Because for you is (forgiven the sin of) the first glance and not the second.’ Abu Umamah Radiyallāhu ‘Anhu narrates that Rasulullāh Sallallāhu ‘Alayhi Wa Sallam said: ‘No Muslim (unintentionally) sees the beauty of a woman the first time then lowers his gaze except that Allāh will bless him with such worship that he will find its sweetness.’

Abū Hurairah Radiyallāhu ‘Anhu narrates that the Rasulullāh Sallallāhu ‘Alayhi Wa Sallam said, “Allāh has written for each limb its share of adultery (zinā). The eye commits adultery and its adultery is by looking (at harām). The tongue commits adultery and its adultery is by speaking (harām). The hands commit adultery and its adultery is by touching (what is harām). The foot commits adultery and its adultery is by walking (towards harām). The ear commits adultery and its adultery is by listening (to harām). The private part either accepts it or rejects it.” (Mushkil-ul-Āthār, hadith: 2283)

The abovementioned verses and Ahādīth suggest that lowering the gaze helps one to protect his/her chastity and that not controlling one's gaze becomes the means of one falling into adultery and fornication. This is also aggravated by the way women dress nowadays and the unrestrained, preying eyes of men that fall on them. In light of this, the fuqahaa state that it is not permissible to look

at any part of a ghair mahram female, whether she is a Muslim or a disbeliever. One is also not allowed to speak to females except in dire necessity. Therefore, should confine his interaction with female professors to necessity only. You should keep your gaze away from her. If there is a need for conversation, keep the conversation formal, restrained, restricted to the topic and limited to the extent of need.

Similarly, it is forbidden for a man and a woman to interact with each other in an informal way, by talking freely and casually, joking around, being flirtatious in the conversation etc. In Surah al-Ahzab (v: 32), Allah Most High commands the wives of the Messenger of Allah (Allah's blessings and peace be upon him) in particular, and all Muslim women in general, to abstain from conversing with non-Mahram men in a soft and sweet tone. As such, when the need arises to talk, both the content and manner of conversation must be appropriate and free of anything enticing. The dialogue must be in a modest and restrained manner, and limited to the extent of need.

Mishkaat pg. 268 (Qadeemi)

Mishkaat pg. 269 (Qadeemi)

Mishkaat pg. 270 (Qadeemi)

الدر المختار (6/ 073)

(فإن خاف الشهوة، أو شك (امتنع نظره إلى وجهها) فجعل النظر مقتبلاً بعدم الشهوة وإلا فحرام وهذا في زمانهم، وأما في زماننا فمتنع من الشائبة فهُستاني وغيره)

وفي حاشية ابن عابدين (رد المحتار)

(قوله مقتبلاً بعدم الشهوة) قال في التنازعانية، وفي شرح الكرخي النظر إلى وجه الأختبية الحرة ليس بحرام، ولكنه يكره لغير حاجة اهـ وظاهره الكراهة ولو بلا شهوة (قوله وإلا فحرام) أي إن كان عن شهوة حرم (قوله وأما في زماننا فمتنع من الشائبة) لا لأنه عورة بل يخوف الفتنة كما قدمه في شروط الصلاة

IS IT PERMISSIBLE TO SUPPORT SPORTS TEAMS?

Q: Is supporting any sports teams or clubs is allowed in Islam? By supporting, I mean like being a diehard fan.

A: In today's society, following professional sports and supporting a team has become an obsession and craze. For the vast majority of people, it has become a vital element of life.

In terms of Shari'ah, there are many evils associated with following professional sports. The harms are exemplified to a greater degree when one passionately supports a particular team. Some of the evils are listed below:

- **Love for one's team:** The love for one's team becomes entrenched in the heart. This is totally against the temperament of Shari'ah. The heart is created by Allāh to entertain only the love of Allāh and His Rasūl Sallallāhu Alaihi Wa Sallam. The enrooted love for one's team deprives him from attaining the recognition and love of Allāh. The love of Qurān and everything associated with Dīn also leaves the heart.
- **Mad obsession and distraction:** The love for one's team blinds the diehard fan and supporter from everything else besides sports. Rasūlullāh Sallallāhu Alaihi Wa Sallam has stated:

حُبُّكَ الشَّيْءَ يُعَمِّي وَيُصِمُّ (سنن أبي داود، باب في الهوى)

The love of something blinds and deafens the lover. (Sunan Abī Dāwūd)

This is extremely detrimental and destructive to one's Dīn. Many a times, the love of one's team takes him away from performing Salāh and going to the Masjid, especially when one is engrossed in watching a live match.

- **Love for players:** When one supports a team, the players become his idols and heroes. He tries to imitate their lifestyle and yearns to be like them. Many a times, these players are Kuffār (disbelievers) and Fussāq (shameless sinners) involved in alcohol, drugs, and women. Imagine the effect on a person whose role-models are sinking in the disobedience of Allāh! A Muslim is one who follows the beautiful teachings of Rasūlullāh Sallallāhu Alaihi Wa Sallam and not a player whose actions invite the wrath of Allāh.
- **Nationalism:** Fans develop a deep love for their national team. As a result, the fans are affected by patriotism. A type of hatred and spite is created for people of other nationalities. The media creates a patriotic atmosphere and induces malice between nations. This type of attitude is totally against Sharīah.
- **Music:** The love for one's team drives him to watch his team perform. During the game, loud music is played in support of the national team. Music is poison for the heart. It penetrates the heart and causes hypocrisy to form within.
- **Waste of time:** One's valuable and precious time is wasted in following the stats of one's team and watching one's team perform. Life is bestowed by Allāh Ta'ālā to utilize in recognizing and obeying Allāh Ta'ālā. There is neither worldly benefit nor religious benefit in supporting a team.

Hence, due to the above-mentioned reasons, it is not allowed for one to support a professional team.

In conclusion, a Muslim is one who develops the love of Allāh within his heart. His living and dying is only for Allāh. He does not waste his time and life in insignificant pursuits such as following professional sports and supporting a team.

ISLAM AND SPORT (Published by: Madrasah Arabia Islamia Azaadville-South Africa), Pg. 69)

WHO WAS IBN KATHIR (RAHIMAHULLAH)?

Q: I want to ask how reliable is as Sirah an Nabawiyya by Ibn Kathir, and a background on who was Ibn Kathir and what Manhaj did he follow? Was he a Hanafi?

A: Ibn Kathir's full name is Abu Al-Fidaa ibn Abi Hafs Shihabuddin Omar ibn Kathir. He was born in the year 701 AH in the city of Busra. He moved to Damascus in the year 706AH. Ibn Kathir learned Fiqh from Burhaan Ud-Deen Ibrahim ibn Abdul-Rahman, learned Hadith from Isa ibn Mut'im.

In Ad-Durar Al-Kaminah, Al-Hafiz Ibn Hajar AlAsqalani said, "Ibn Kathir worked on the subject of the Hadith in the texts and chains of narrators. He had a good memory, his books became popular during his lifetime, and people benefited from them after his death."

Ibn Kathir had immense knowledge in the field of Hadith, Tafsir and Fiqh. He gave Islamic verdict (Fatwas) and taught until he died. He was known for his precision and vast knowledge, and as a scholar of History, Hadith and Tafsir.

Ibn Kathir will be remembered by his famous books Bidaya Anihaya, Tafsir Ibn Kathir, Tabqaat Ashafi'ah, Musnad Ul-Faaruuq, Sira Al-Nabawiyya and Jami Ul-Masaneed.

Allamah Ibn Kathir became blind in his life and passed away on Thursday 26 of Sha'baan of the year 774 AH in Damascus. The book Sirah Nabawiyyah by Ibn Kathir is reliable.

PROPHET AYUB (ALAYHI SALAAM)

Q: What is the Dua of Ayub (Alayhi Salam) and what was his story of hardship that mentioned in Quran? Can we read same Dua?

A: Ayub (Alayhi Salam) was the prophet of Allah during the era between Musa and Yaqub (Alayhimus Salam) which was between 1300-1500 B.C. Some scholars are of the opinion that he was originally Roman from the bloodline of Ibrahim (Alayhi Salam) whilst others say he was an Arab. It is also mentioned that his mother was the daughter of Lut (Alayhi Salam). Allah Taala blessed him with abundant wealth land, livestock, slaves and many children etc. Allah tested Ayub (Alayhi Salam) by taking away everything he had to such an extent that even his health was taken away from him. Historians and commentators write that not a single limb of Ayub (Alayhi Salam) was safe from disease except his tongue and his heart through which he would remember Allah Taala.

Difficulties worsened to such an extent that people cut their ties with him due to his illness and had him expelled from the city to a place outside the city. The only person that was there to support him was his wife, Rahmah bint Ifrahim.

Despite all the difficulties, Ayub (Alayhi Salam) was patient, persevering, and grateful. He was also constantly engrossed in the remembrance of Allah Taala day and night. It was after years of forbearance and difficulty that Ayub (Alayhi Salams) wife told him “oh Ayub why don’t you ask Allah to help you”. He replied “I lived for seventy years in prosperity why shouldn’t I be patient for the sake of Allah for seventy years.” It was after this that Ayub (Alayhi Salam) made the following dua which is in the Quraan:

وَأَيُّوبَ إِذْ نَادَىٰ رَبَّهُ أَنِّي مَسَّنِيَ الضُّرُّ وَأَنْتَ أَرْحَمُ الرَّاحِمِينَ

And when Ayub (Alayhi Salam) prayed to his Rabb saying, “Difficulty has certainly afflicted me and You are the Most Merciful of those who show mercy”. (Surah Ambiya-83)

Allah Taala mentions in the Quraan how Ayub (Alayhi Salam) was healed:

اِزْكُضْ بِرِجْلِكَ هَذَا مُغْتَسَلٌ بَارِدٌ وَشَرَابٌ

(Allah Taala said) Strike your foot on the ground (Allah Taala caused a spring to gush out) This is cool water for bathing and drinking (after which you will be cured) (Surah Saad-42)
Allah Taala then mentions:

وَوَهَبْنَا لَهُ أَهْلَهُ وَمِثْلَهُمْ مَعَهُمْ رَحْمَةً مِنَّا وَذِكْرَىٰ لِأُولِي الْأَلْبَابِ

(After curing him) We gifted him with his family and as many of them in addition (twice as many) As a mercy from Us and a reminder for the people of intelligence (to remind them that Allah rewards the patient ones and restores their losses. (Surah Saad-43)

Lessons from the story of Ayub (Alayhi Salam):

- a. Allah tests those that are close to him to elevate their ranks.
- b. It is easy to thank Allah Taala in the state of prosperity, but praising and remembering Allah during difficulties and accepting his decree is most beloved to Allah and draws his mercy.
- c. No matter the situation, one should never be despondent of the mercy of Allah.
- d. Being thankful and humble during prosperity and being steadfast and patient during difficulty are two great bounties a person can have and inculcate.

2. It is advisable to recite the dua of Ayub (Alayhi Salam) when faced with difficulties.

قصص القرآن مولانا حفظ الرحمان سهاروی ص 755 دار الاشاعت [1]

[2] عن أبي عبيدة بن حذيفة، عن عمته، قالت: أصاب رسول الله صلى الله عليه وسلم، حمى شديدة فأمر بسقاء فعلق بشجرة ثم اضطجع تحته فجعل يقطر على فؤاده قال: «إن أشد الناس بلاء الأنبياء، ثم الأمثل فالأمثل (النسائي-0447)

عن عائشة رضي الله عنها، قالت: «ما رأيت أحدا أشد عليه الوجع من رسول الله صلى الله عليه وسلم» (بخاری-6465)

إِنَّا وَجَدْنَاهُ صَابِرًا نِعْمَ الْعَبْدُ إِنَّهُ أَوَّابٌ (سورة ص-44)، [3]

البداية و النهاية ص 262 دار ابن كثير [4]

[5] قصص القرآن مولانا حفظ الرحمان سهاروی ص 665 دار الاشاعت

THA‘LABAH IBN HĀTIB (RADIALLĀHU ‘ANHU)

Q: In Mufti shafis RA commentary Ma`riful quran in surah taubah, commenting on verse 75-78, He mentions an incident involving a person called Thalabah ibn hatib Ansari and mentions he was declared a hypocrite. <http://mawdu.wordpress.com/2012/04/08/hadith-sahabi-sahaba-thalaba-pigeon-mosque/>

Now on this link, it mentions why this story revolving around this person who was in fact a Sahabi is extremely weak or a fabrication and scholars like sheikh Abul Fattah abu ghudaa conclude that the story is sick and has no basis whatsoever and others like imam qurtubi say this story is not reliable and imam hajar asqalani says that its weak to the extent that it cannot be used as evidence. Could you dig deeper and tell me whether this story is true or not and if not true, then should the incident be taken out of Ma`riful quran.

A: Note from Hazrat Mufti Ebrahim Desai Sāheb (Hafidhahullah)
The spurious views of the Shī‘ah regarding the Sahābah are well-known. Some may even quote the books of our Akabireen to prove their point. This article removes the misconception that some verses in Sūrah Tawbah refer to Tha‘labah ibn Hātib Radiallāhu ‘Anhu and that he was a Munāfiq. It makes for an interesting read for students of tafsīr.

Allāh Ta‘ālā says in the Qur‘ān:

وَمِنْهُمْ مَّنْ عَاهَدَ اللَّهَ لَئِنْ آتَانَا مِنْ فَضْلِهِ لَتَصَّدَّقَنَّ وَلَتَكُونَنَّ مِنَ الصَّالِحِينَ فَلَمَّا آتَاهُمْ مِّنْ فَضْلِهِ بَخِلُوا بِهِ وَتَوَلَّوْا
وَهُمْ مُّعْرِضُونَ فَأَعْقَبَهُمْ نِفَاقًا فِي يَوْمٍ يُلْقَوْنَ إِلَىٰ يَوْمِ يَلْقَوْنَ اللَّهَ مَا عَدَوْهُ وَمَا كَانُوا يَكِيدُونَ

“And amongst them is he who made a covenant with Allah: If He give us of His bounty, we will give in charity and become of the righteous. Yet, when He gave them of His bounty, they hoarded it and turned away, averse. So He made their fate to be hypocrisy in their hearts until the day when they shall meet Him, because they broke their word to Allah that they promised Him, and because they lied.” (9:75-7)

These verses speak of one or more of the Munāfiqīn who promised that if Allāh gives them wealth, they will spend of it in His path. However, when wealth was bestowed on them, they did not do as they had promised. Instead they were miserly and turned away from Allāh’s obedience. Hence, Allāh sealed their fate as Munāfiqīn.

A popular account states that these verses refer to Tha‘labah ibn Hātib. This attribution to Tha‘labah is narrated only from ‘Abdullāh bn ‘Abbās and Abū Umāmah al-Bāhilī (radiyAllāhu ‘anhum) from the Sahābah; and from al-Hasan al-Basrī from the Tābi‘īn. The report from Abū Umāmah al-Bāhilī (radiyAllāhu ‘anhu) contains a detailed narrative. The following is a brief analysis of the authenticity of these three reports.

The first report from Ibn ‘Abbās is narrated by Ibn Jarīr al-Tabarī , Ibn Abī Hātim , Ibn Mardawayh and al-Bayhaqī . It states that Ibn ‘Abbās said in explanation of the abovementioned verses: “A man called Tha‘labah ibn Hātib from the Ansār attended a gathering and made them bear witness saying, ‘If Allāh gives me from His bounty I will give of it to every person holding a right [over me] his due and I will give of it in charity and I will maintain blood relations by means of it.’ Thus Allāh tried Him from His bounty, whereupon he reneged on his promise and angered Allāh for going back on his word. Thus, Allāh related his story in the Qur’ān.”

This report from Ibn ‘Abbās (radiyAllāhu ‘anhumā) is narrated only via the following chain:

1. Muhammad ibn Sa’d ibn Muhammad ibn al-Hasan ibn ‘Atiyyah ibn Sa’d ibn Junādah Abū Ja’far al-‘Awfī (d. 276 H) from:
2. His father, Sa’d ibn Muhammad al-‘Awfī from:
3. His uncle, Al-Husayn ibn al-Hasan ibn ‘Atiyyah Abū ‘Abdillāh al-‘Awfī (d. 201 H) from:
4. His father, Al-Hasan ibn ‘Atiyyah al-‘Awfī (d. 181 H) from:
5. His father, ‘Atiyyah ibn Sa’d ibn Junādah al-‘Awfī (d. 111 H) from:
6. Ibn ‘Abbās (d. 68)

This is a chain from a family of ‘Awfīs, and every one of them has been criticised for his transmission of hadīth, some more than others. Hence, al-Khatīb al-Baghdādī said Muhammad ibn Sa’d is “weak” (layyin) in hadīth, although al-Dāraqutnī regarded him as “unproblematic”. Regarding his father, Sa’d ibn Muhammad, Imām Ahmad said: “Jahmī, and even if it was not so, he is still not worthy of being written from and he was not of that position.”

The next narrator, al-Husayn ibn al-Hasan al-‘Awfī, was “weak in judgement and weak in hadīth” according to Yahyā ibn Ma’in. His father, al-Hasan ibn ‘Atiyyah, was also considered “weak in hadīth” by Abū Hātim al-Rāzī; and Ibn Hibbān said: “Disreputable in hadīth...It is necessary to completely disregard him.”

And the final narrator, ‘Atiyyah ibn Sa’d, was regarded as “weak in hadīth” by Ahmad ibn Hanbal, as well as Abū Zur‘ah al-Rāzī, Abū

Hâtim al-Râzī, al-Nasā'ī and others. Hence, this chain is “da‘if jiddan” or “extremely weak.”

The second report from Abū Umāmah al-Bāhili offers a full narrative as follows:

“Tha‘labah ibn Hātib said to the Messenger of Allāh (sallallāhu ‘alayhi wasallam): “Pray to Allāh to grant me wealth.” The Messenger of Allāh (sallallāhu ‘alayhi wasallam) said: “Woe to you, O Tha‘labah!

A small amount of which its thanks is discharged is better than a large amount which you cannot bear.” He again said: “Pray to Allāh to grant me wealth.” He said: “Are you not satisfied that you will be like a prophet of Allāh? By the One in Whose hand is my soul, had I wished that the mountains move with me as gold and silver, they would surely move [with me as such].” He said: “By the One Who sent you with the truth, if you pray to Allāh to grant me wealth, I will surely give every person holding a right [over me] his due.” The Messenger of Allāh (sallallāhu ‘alayhi wasallam) said: “O Allāh, grant Tha‘labah wealth.”

Thus, he acquired some sheep, and they proliferated just as worms proliferate, until Madīnah became too restrictive for him, so he moved away from it and settled in one of its valleys. Consequently, he prayed only Zuhr and ‘Asr in congregation and left the rest of them. Then, they proliferated and became numerous so he moved away until he left all salāhs except Jumu‘ah. They proliferated just as worms proliferate until he left Jumu‘ah too. He began to receive the caravans on Friday asking them the news. The Messenger of Allāh (sallallāhu ‘alayhi wasallam) said: “What happened to Tha‘labah?” They said: “O Messenger of Allāh, he acquired some sheep, and Madīnah became too restrictive for him,” and they informed him of his affair. He said: “Woe to Tha‘labah, woe to Tha‘labah, woe to

Tha‘labah.” Further, Allāh revealed: “Take Zakāt from their wealth, whereby you may purify them and make them clean.” (9:103) The obligations of Zakāt were revealed, so the Messenger of Allāh (sallallāhu ‘alayhi wasallam) dispatched two men to [collect] Zakāt, a man from Juhaynah and a man from Sulaym. He wrote to them how to collect the Zakāt from the Muslims. He said to them: “Pass by Tha‘labah and by so-and-so – a man from Banū Sulaym – and collect their Zakāt.” Thus they left until they arrived at Tha‘labah and asked him for Zakāt and recited to him the letter of the Messenger of Allāh (sallallāhu ‘alayhi wasallam). He said: “This is nothing besides tax! This is nothing besides the sister of tax! I know not what this is! Proceed until you complete [your task] and then come back to me.”

Thus they proceeded and the Sulamī heard of them, so he inspected the best of his camels and put them aside for Zakāt. Then he met them with these [camels]. When they saw them, they said: “This is not incumbent on you and we do not wish to take this from you.” He said: “Indeed, take it, as my heart is content with this, and it is only for me.” They took them from him.

When they finished from their Zakāt [collection], they returned and passed by Tha‘labah. He said: “Show me your letter.” He looked at it and he said: “This is nothing but the sister of tax! Proceed so that I can apply my mind.” They proceeded until they came to the Prophet (sallallāhu ‘alayhi wasallam) and when he saw them he said: “Woe to Tha‘labah” before he spoke to them and he prayed for blessing for the Sulamī. They informed him of what Tha‘labah did and what the Sulamī did. Thus, Allāh (Gloried and Exalted is He) sent down: “And amongst them is he who made a covenant with Allah: If He give us of His bounty, we will give in charity and become of the righteous. Yet, when He gave them of His bounty, they hoarded it and turned away, averse. So He made their fate to be hypocrisy in their hearts until the day when they shall meet Him, because they broke their word to

Allah that they promised Him, and because they lied” (9:75-8)
There was a man from the relatives of Thalabah in the presence of the Messenger of Allāh (sallallāhu ‘alayhi wasallam) who heard this. He left until he came to him and said: “Woe to you, O Tha‘labah. Allāh has revealed such-and-such about you!” Tha‘labah went out until he came to the Prophet (sallallāhu ‘alayhi wasallam) and asked him to accept the Zakāt from him. He replied: “Allāh has prohibited me from accepting your Zakāt.” He began to throw dust on his head. The Messenger of Allāh (sallallāhu ‘alayhi wasallam) said: “This is your doing! I gave you an order and you did not follow it!”

When the Messenger of Allāh (sallallāhu ‘alayhi wasallam) refused to accept [his Zakāt], he returned to his house. The Messenger of Allāh (sallallāhu ‘alayhi wasallam) passed away and he did not accept anything from him. Then he came to Abū Bakr when he was appointed caliph and said: “You know my position in relation to the Messenger of Allāh and my place amongst the Ansār, so accept my Zakāt.” Abū Bakr said: “The Messenger of Allāh (sallallāhu ‘alayhi wasallam) did not accept it, and I accept it?!” Thus Abū Bakr passed away not accepting it. When ‘Umar took charge, he came to him and said: “O Commander of the Believers, accept my Zakāt.” He said: “Neither the Messenger of Allāh nor Abū Bakr accepted it from you, so I will not accept it from you.” Thus he passed away and did not accept it.

Then ‘Uthmān took charge, and he came to him asking him to accept his Zakāt. He said: “Neither the Messenger of Allāh, nor Abū Bakr, nor ‘Umar accepted it, and I will not accept it from you.” He did not accept it from him. Tha‘labah perished in the caliphate of ‘Uthmān.” This lengthy report from Abū Umāmah was transmitted by Ibn Jarīr , Ibn Abī Hātim , al-Tabrānī , Abū Nu‘aym , al-Bayhaqī , al-Wāhidī and al-Baghawī amongst others , and the chains of transmission of all of them meet at the following:

1. Mu‘ān ibn Rifā‘ah from:
2. ‘Alī ibn Yazīd from:
3. Al-Qāsim ibn ‘Abd al-Rahmān from:
4. Abū Umāmah

The first two narrators have been criticised. Mu‘ān ibn Rifā‘ah was regarded as trustworthy by ‘Alī ibn al-Madīnī and Duhaym , and “unproblematic” by Ahmad and Abū Dāwūd , while the majority have considered him weak . ‘Alī ibn Yazīd was considered a rejected narrator (matrūk), as stated by al-Dāraqutnī, al-Nasā‘ī and others. Al-Bukhārī said he is “munkar” which in his usage means it is not permissible to narrate his hadīths . Ibn Hibbān said: “Extremely disreputable in hadīth...It is necessary to stay clear of his narrations.” This renders the narration extremely weak. Thus, Ibn Hajar al-‘Asqalānī said: “This is an extremely weak chain.”

The third report from al-Hasan al-Basrī (d. 110) states that he said: “Those who took a covenant with Allāh amongst them are: Tha‘labah ibn Hātib and Mu‘attib ibn Qushayr, and they were from the Banū ‘Amr ibn ‘Awf.” This report is narrated by Ibn Jarīr al-Tabarī through the following route:

1. Muhammad ibn Humayd (168 – 248) from:
2. Salamah ibn al-Fadl al-Rāzī (d. 191) from:
3. Muhammad ibn Ishāq (80 – 150 H) from:
4. ‘Amr ibn ‘Ubayd (d. 143)

The teacher of al-Tabarī, Muhammad ibn Humayd, was known to add chains of transmission to texts of hadīth. He is widely regarded as unreliable . His teacher, Salamah, was also considered weak by some. ‘Amr ibn ‘Ubayd (d. 143 H) was a famous Mu‘tazilī preacher who a large group accused of lying and forging reports despite his outward piety and worship. Yūnus ibn ‘Ubayd (d. 140 H) said: “He

would tell lies in hadīth.” Humayd ibn Abī Humayd (68 – 143 H) said: “Do not take anything from this [person] as he invents lies from al-Hasan.” ‘Abdullāh ibn ‘Awn (d. 151 H) said: “What have we to do with ‘Amr ibn ‘Ubayd?! He would invent lies from al-Hasan.” When informed of a report of his, ‘Awf ibn Abī Jamīlah al-A‘rābī (58 – 146 H) said: “By Allāh ‘Amr lied.” These critics were amongst ‘Amr’s contemporaries and every one of them is a reliable transmitter found in all six of the famous collections of hadīth. Hence, this report cannot be ascribed to al-Hasan al-Basrī (rahimahullāh).

Since these three reports are the only source of this attribution, and their chains of transmission are extremely weak or worse, the verse cannot be said to refer to Tha‘labah ibn Hātib. The principle of two or more weak chains supporting one another only applies to those that are not extremely weak or baseless. When they are extremely weak or baseless, multiple chains do not confer added strength. Hence, the attribution is unacceptable and the narration in question is unsuitable for quotation.

This is further corroborated by its inconsistency with other known details. The most important of these details is that the person in question, Tha‘labah ibn Hātib, was a Sahābī known to have participated in the Battle of Badr. It is not possible for such a great and noble Sahābī to be amongst the Munāfiqīn. There are also other areas of concern in the detailed narrative found in Abū Umāmah’s narration. Thus, Imām al-Dhahabī said: “Tha‘labah ibn Hātib ibn ‘Amr al-Ansārī al-Awsī, a veteran of Badr. He said: ‘O Messenger of Allāh, supplicate to Allāh to grant me wealth,’ and then he mentioned a lengthy hadīth, which is completely rejected.”

Ibn Hazm al-Zāhiri said:

“We narrated an inauthentic narration in which it is mentioned that this [verse] was revealed in regards to Tha‘labah ibn Hātib and this is false because Tha‘labah is a famous veteran of Badr.”

While the narration is unreliable, many famous commentators of the Qur’ān have unfortunately included it in their books of tafsīr, including Fakhr al-Dīn al-Rāzī, Hāfiz Ibn Kathīr and Mahmūd al-Ālūsī, without commenting on its spuriousness. Muftī Muhammad Shafī‘ in his Ma‘ārif al-Qur’ān appears to have relied on these earlier mufasssīrīn without investigating its authenticity. One who finds such reports in books of tafsīr should ascertain with a scholar of hadīth whether they are acceptable for quotation before accepting or quoting them.

With regards to the true background of the verse, Ibn Jarīr al-Tabarī narrates with a sound chain to Qatādah ibn Dī‘amah (60 – 118 H) that he said: “It was related to us that a man from the Ansār came to a gathering of the Ansār and said that if Allāh gives him wealth he will surely give each person with a right [over him] his due. When Allāh gave him wealth, he acted in it as you have heard.” “Ansār” in this narration is a reference to the people of Madīnah in general, some of whom were Munāfiqīn.

Ibn Jarīr also narrates with an authentic chain to Mujāhid ibn Jabr (19 – 102 H) that the verse is in reference to two men who said to a group of people: “If Allāh gives us provision, we will surely give in charity.” When they were given provision, they became miserly. Hence, the verses are in reference to one or more of the Munāfiqīn who resided in Madīnah. They are not in reference to Tha‘labah ibn Hātib or any other Sahābī.

قال ابن الصلاح: ليس كل ضعف في الحديث يزول بهجيته من وجوه، بل ذلك يتفاوت، فمنه ضعف يزيله ذلك، بأن يكون ضعفه ناشئاً من ضعف حفظ راويه مع كونه من أهل الصدق والديانة، فإذا رأينا ما رواه قد جاء من وجه آخر عرفنا أنه ما قد حفظه ولم يختل فيه ضبطه له. وكذلك إذا كان ضعفه من حيث الإرسال زال ببحو ذلك، كما في المرسل الذي يرسله إمام حافظ إذا فيه ضعف قليل يزول بروايته من وجه آخر. ومن ذلك ضعف لا يزول بنحو ذلك لقوة الضعف وتعاقد هذا الجابر عن جبره ومقاومته، وذلك كالضعف الذي ينشأ من كون الراوي متهما بالكذب أو كون الحديث شاذاً. (قال نور الدين العتر في تعليقه: ومثل المتهم بالكذب من كان شديد الضعف) (مقدمة ابن الصلاح، ص ٤٣)

وإن يكن ضعف الحديث لكذب في رواية أو شذوذ في رواية بأن خالف من هو أحفظ أو أكثر أو قوي الضعف بغيرهما مما يقتضي الرد كفضح الخطأ فلم يجبر ذا أي الضعف بواحد من هذه الأسباب ولو كثرت طرقه (فتح المغيبي، مكتبة دار المنهاج، ج ١ ص ٣١)

تعلية بن حاطب بن عمرو الأنصاري الأوسي، بدري. قال: يا رسول الله صلى الله عليه وسلم، ادع الله أن يرزقني مالا، فذكر حديثاً طويلاً منكراً مرة (تجريد أسماء الصحابة، دار المعرفة، ج ١ ص ٦٦)

وفيه أنها نزلت في تعلية بن حاطب وهذا باطل لأن تعلية بدري معروف (المحلى، إدارة الطباعة المنيرية، ج ١١ ص ٧٠٢-٧٠٣)
حدثنا بشر ثنا يزيد قال ثنا سعيد عن قتادة قوله: ومنهم من عهد الله لئن آتانا من فضله الآية: ذكر لنا أن رجلاً من الأنصار أتى على مجلس من الأنصار فقال: لئن آتاه الله مالا ليوذين إلى كل ذي حق حقه فأتاه الله مالا فصنع ما تسمعون (جامع البيان عن تأويل آي القرآن، ج ١١ ص ٨٥)
حدثني محمد بن عمرو قال: ثنا أبو عاصم قال ثنا عيسى عن ابن أبي نجيح عن مجاهد في قول الله: ومنهم من عهد الله لئن آتانا من فضله، قال: رجلاً خرجاً على ملاً فعود، فقال: والله لئن رزقنا الله لنصدقن، فلما رزقهم الله بخلوا به. (جامع البيان عن تأويل آي القرآن، ج ١١ ص ٢٨٥) ورواه إسماعيل بن عمار

NASHEEDS

Q: “Anāshid were created by innovators to distance people away from the Qur`ān.” Imām Shāfi`i,

[مجموع الفتاوى لابن تيمية ٢٣٥١١]

What are your thoughts on this? Should we avoid listening to modern day Anasheeds?

A: Before answering your query, we shall quote the original text along with the translation for the purpose of clarification:

سُئِلَ شَيْخُ الْإِسْلَام - قَدَسَ اللَّهُ رُوحَهُ -:

عَنْ جَمَاعَةٍ اجْتَمَعُوا عَلَى أُمُورٍ مُتَنَوِّعَةٍ فِي الْفَسَادِ؛ وَتَعَلَّقَى كُلُّ مِنْهُمْ بِسَبَبٍ؛ وَاسْتَدَّ إِلَى قَوْلٍ قِيلَ: فَمِنْهُمْ مَنْ هُوَ مُكِبٌّ عَلَى حُضُورِ السَّمَاعَاتِ الْمُحَرَّمَةِ الَّتِي تَعْمَلُ بِالْدُّفُوفِ الَّتِي بِالْجَلَّالِ وَالشَّبَابَاتِ الْمَعْرُوفَةِ فِي هَذَا الزَّمَانِ. وَيَحْضُرُهَا الْمُرْدَانُ وَالنِسْوَانُ وَيَسْتَدِّدُ فِي ذَلِكَ إِلَى دَعْوَى جَوَازِ حُضُورِ السَّمَاعِ عِنْدَ الشَّافِعِيِّ وَغَيْرِهِ مِنَ الْأَهْلِ. فَأَجَابَ:

أَمَّا السَّمَاعَاتُ الْمُشْتَمِلَةُ عَلَى الْغِنَاءِ وَالصَّفَارَاتِ وَالْدُّفُوفِ الْمُصَلَّاتِ: فَقَدْ اتَّفَقَ أَهْلُ الدِّينِ أَنَّهَا لَيْسَتْ مِنْ جَنْسِ الثُّرْبِ وَالطَّاعَاتِ بَلْ وَلَوْ لَمْ يَكُنْ عَلَى ذَلِكَ كَالْغِنَاءِ وَالتَّصْفِيقِ بِالنِّدِّ وَالضَّرْبِ بِالْقَصِيبِ وَالرَّقْصِ وَنَحْوِ ذَلِكَ

فَهَذَا وَإِنْ كَانَ فِيهِ مَا هُوَ مُبَاحٌ وَفِيهِ مَا هُوَ مَكْرُوهٌ وَفِيهِ مَا هُوَ مَحْظُورٌ أَوْ مُبَاحٌ لِلنِّسَاءِ دُونَ الرِّجَالِ. فَلَا نِزَاعَ بَيْنَ أَهْلِ الدِّينِ أَنَّهُ لَيْسَ مِنْ جَنْسِ الْقُرْبِ وَالطَّاعَاتِ وَالْعِبَادَاتِ وَلَمْ يَكُنْ أَحَدٌ مِنَ الصَّحَابَةِ وَالتَّابِعِينَ وَأَهْلِ الدِّينِ وَغَيْرِهِمْ مِنْ مَسَايِخِ الدِّينِ يَحْضُرُونَ مِثْلَ هَذَا السَّمَاعِ لَا بِالْحِجَازِ وَلَا بِمِصْرَ وَلَا الشَّامِ وَلَا الْعِرَاقِ وَلَا خُرَّاسَانَ. لَا فِي زَمَنِ الصَّحَابَةِ وَالتَّابِعِينَ وَلَا تَابِعِيهِمْ. لَكِنْ حَدَّثَ بَعْدَ ذَلِكَ: فَكَانَ طَائِفَةٌ يَجْتَمِعُونَ عَلَى ذَلِكَ وَيُسَمُّونَ الضَّرْبَ بِالْقَضِيبِ عَلَى جَلَّالٍ وَنَحْوِهِ "التَّغْيِيرُ".

قَالَ الْحَسَنُ بْنُ عَبْدِ الْعَزِيزِ الْحَرَّانِيُّ: سَمِعْتُ الشَّافِعِيَّ يَقُولُ: خَلَفْتُ بِبَعْدَادَ شَيْئًا أَحَدَتْهُ الرِّيَاضَةُ يُسَمُّونَهُ التَّغْيِيرَ يَصُدُّونَ بِهِ النَّاسَ عَنِ الْقُرْآنِ وَهَذَا مِنْ كَمَالِ مَعْرِفَةِ الشَّافِعِيِّ وَعِلْمِهِ بِالدِّينِ فَإِنَّ الْقَلْبَ إِذَا تَعَوَّدَ سَمَاعَ الْقَضَائِدِ وَالْأَبْيَاتِ وَالتَّنْدُ بِهَا حَصَلَ لَهُ نُفُورٌ عَنِ سَمَاعِ الْقُرْآنِ وَالْآيَاتِ فَيَسْتَعْنِي بِسَمَاعِ الشَّيْطَانِ عَنِ سَمَاعِ الرَّحْمَنِ

Shaykh ibn Taymiyyah (rahimahullāh) was asked about a group of people who would gather for a variety of corrupt purposes (i.e. for gatherings involving music and singing). And each one of them adhered to (one or another) reason and each one supported his reasoning by relying on some opinion which has been mentioned (by a scholar). From amongst them are those who are ardent on joining such harām musical gatherings that play drums with bells and flutes that have become popular in our time; (gatherings) that are attended by men and women. In order to support such gatherings, they claim that Imam Shāfi`ī (rahimahullāh) and other Imams (rahimahumullāh) allowed people to attend such gatherings of music and singing.

Shaykh ibn Taymiyyah (rahimahullāh) replied:

In regard to musical gatherings that include singing and the playing of flutes and tambourines that jingle, the Imams of this Dīn are unanimous that such gatherings are not a means of gaining closeness to Allāh or considered to be acts of virtue. Rather, even if such gatherings did not include singing, clapping, beating drums, dancing, etc. and even if there are certain elements in these gatherings out of which some are permissible, some are disliked, and some are impermissible or allowed for women but not men, there is no difference

between the Imams of this Dīn that such things are not from acts that bring one closer to Allāh or are considered to be acts of virtue or acts of worship. (Furthermore,) none from the Sahābah, Tābi`ūn, Imams of this Dīn, or others scholars would attend such gatherings (of music and singing); not in Hijāz, not in Misr, not in Shām, not in `Irāq, and not in Khurāsān. (Such gatherings were never established;) not in the times of the Sahābah, the Tābi`ūn, or in the time of the Tab` Tābi`īn. However, such gatherings were invented after their time. There would be a group of such people who would gather for such things and they would call this playing of drums, bells, etc.

“Taghbīr.”

Imam Hasan ibn `Abd al-`Azīz al-Harrānī (rahimahulāh) says, “I heard Imam Shāfi`ī (rahimahullāh) saying: ‘I left Baghdād behind as the heretics amongst them invented something which they call Taghbīr by which they hinder people from (coming towards) the Qur`ān.’ This (action of Imam Shāfi`ī) is a sign of Imam Shāfi`ī’s (rahimahullāh) deep insight and his knowledge of Dīn. For it is certain that when the heart becomes accustomed to listening to such verses and lines of poetry and it starts to feel pleasure from it as well, then it forms a sort of distaste for listening to the Qur`ān and its verses. In the end, it (i.e. the heart) feels that listening to the Shaytān (i.e. poetry with music and singing) suffices in place of listening to Al-Rahmān (i.e. the words of Allāh Ta`ālā).

It goes without saying that the words used in your query are an absolute misquotation of Imam Shāfi`ī (rahimahullāh) and also completely out of context. In matters of Dīn, we should carefully consider the sources of our knowledge and be very careful when quoting such great scholars of the past.

Nevertheless, it should be clear that the quotation above is not referring to all types of anāshīd we are used to hearing today; rather, it is referring to the gatherings of a group of deviant people who would hold congregations where they would sing Islamic songs and poetry that were often accompanied by musical instruments. These people would further believe that such musical gatherings are a form of attaining proximity with Allāh Ta'ālā. Some would even declare such congregations as acts of virtue where those attending would be deserving of reward.

In the reference above, Imam Shāfi'ī (rahimahullāh) is expressing his fear about the eventual outcome of holding such gatherings; if such gatherings continue to take place, people's hearts will become infatuated by "Islamic" musical recitals and their love for hearing the Qur'ān would be overtaken by the love of these musical gatherings. This is besides the fact that such gatherings would include musical instruments, the use of which are categorically declared as harām.

On the other hand, if a nashīd does not include any musical instruments, the subject of the nashīd is acceptable and free of derogatory terms, and the one reciting is not a grown woman (i.e. if it is a young female child, it is permissible to hear her voice), then it is permissible to listen to such anāshīd on the condition that it does not lead one to be negligent in one's Islamic obligations. As a matter of fact, reciting such forms of Islamic poetry, even in public, is established from the ahādīth. Consider the following narrations:

عَنْ عَائِشَةَ، قَالَتْ: كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَضَعُ لِحْسَانَ مِنبَرًا فِي الْمَسْجِدِ يَقُومُ عَلَيْهِ قَائِمًا يُفَاخِرُ عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، أَوْ قَالَتْ: يُتَفَخَّحُ عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَيَقُولُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: إِنَّ اللَّهَ يُؤَيِّدُ حَسَانَ بَرُوحِ الْقُدُسِ مَا يُفَاخِرُ، أَوْ يُتَفَخَّحُ عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ.

`Āishah (radiyallāhu `anhā) narrates that the Messenger of Allah had a minbar placed in the Masjid for Hassān (radiyallāhu `anh) to stand to boast (poetically) about the Messenger of Allah” - or she said: “to defend the Messenger of Allah .And the Messenger of Allah said: ‘Indeed Allah has aided Hassan with the holy spirit (Jibrīl) as he boasts about - or - defends the Messenger of Allah”

عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، قَالَ: مَرَّ عُمَرُ فِي الْمَسْجِدِ وَحَسَّانٌ يُنَشِّدُ فَقَالَ: كُنْتُ أَنْشِدُ فِيهِ، وَفِيهِ مَنْ هُوَ خَيْرٌ مِنْكَ، ثُمَّ التَّفَّتْ إِلَى أَبِي هُرَيْرَةَ، فَقَالَ: أَنْشِدْكَ بِاللَّهِ، أَسَمِعْتَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «أَجِبْ عَنِّي، اللَّهُمَّ أَيَّدْهُ بِرُوحِ الْقُدُسِ؟» قَالَ: نَعَمْ

Sa`id ibn al-Masayyib (rahimahullāh) narrates that `Umar (radiyallāhu `anh) came to the Masjid while Hassān was reciting a poem. (`Umar radiyallāhu `anh disapproved of that). On that Hassān said, “I used to recite poetry in this very Masjid in the presence of one (i.e. the Prophet) who was better than you.” Then he turned towards Abū Hurayrah (radiyallāhu `anh) and said (to him), “I ask you by Allāh, did you hear Allah’s Messenger saying (to me), “Retort on my behalf. O Allah! Support him (i.e. Hassān) with the Holy Spirit?” Abu Hurayrah said, “Yes.”

It is important to point out that today many artists have incorporated music and other harām elements into their anashīd. Often we listen to radio stations playing anāshīd with instruments such as drums and pianos playing in the background. This deceives the Muslim public into thinking that as long as the subject of a nashīd is Islamic, then it is completely permissible to listen to such a nashīd even if it incorporates music. Not only is this contrary to the style of poetry permitted in the ahādīth , it is also against the consensus of all four schools of thought. This is in fact a manifestation of the exact fear that Imam Shāfi`ī (rahimahullāh) exhibited when he made the statement quoted above.

In conclusion, the statement of Shaykh Ibn Taymiyyah (rahimahullāh) is referring to a specific portrayal of Islamic poetry that involves harām elements (such as music) and further defocuses people from attending to their Islamic duties and other rewarding acts of worship such as reading the Qur'an. However, if such gatherings of anāshīd conform to the conditions mentioned above, then they will not be included under this prohibition.

Majmū' al-Fatāwā, v. 11 p. 531-532, Published by the Kingdom of Saudi Arabia

Fatāwā Mahmūdiyyah, v. 17 p. 435, Maktabah Mahmūdiyyah

[قال الحصكفي] في السراج وَذَلِكَ الْمَسْأَلَةُ أَنَّ الْمَلَاهِي كُلَّهَا حَرَامٌ وَيَدْخُلُ عَلَيْهِمْ بِلَا إِذْنِهِمْ لِذِكَارِ الْمُتَكِرِّ قَالَ ابْنُ مَسْعُودٍ صَوْتُ الْهُوِّ وَالْغِنَاءُ يُبْنِي الثَّقَافَ فِي الْقَلْبِ كَمَا يُبْنِي الْبِنَاءَ الثَّبَاتَ. قُلْتُ: وَفِي الْبَرَاذِيرِ اسْتِجَاعُ صَوْتِ الْمَلَاهِي كَقَرْبِ قَضَبٍ وَنَحْوِهِ حَرَامٌ لِقَوْلِهِ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ - «اسْتِجَاعُ الْمَلَاهِي مَعْصِيَةٌ وَالْجُلُوسُ عَلَيْهَا فِسْقٌ وَالتَّلَذُّدُ بِهَا كُفْرٌ» أَيْ بِالنَّعْمَةِ فَضَرَفَ الْجَوَارِحَ إِلَى غَيْرِ مَا خَلِقَ لِأَجْلِهِ كَفَرُ بِالنَّعْمَةِ لَا شُكْرٌ فَالْوَجِبُ كُلُّ الْوَجِبِ أَنْ يَحْتَنِيَتْ كَيْ لَا يَسْمَعَ لِمَا رُوِيَ «أَنَّهُ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ - أَدْخَلَ أَصْبَعَهُ فِي أُذُنِهِ عِنْدَ سَمَاعِهِ»

[قال ابن عابدين] (قَوْلُهُ وَذَلِكَ الْمَسْأَلَةُ (إِلخ) لِأَنَّ مُحَمَّدًا أَطْلَقَ اسْمَ اللَّعِبِ وَالْغِنَاءِ فَاللَّعِبُ وَهُوَ الْهُوُّ حَرَامٌ بِالنَّصِّ قَالَ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ - «لَهُوَ الْمُؤْمِنُ بَاطِلٌ إِلَّا فِي ثَلَاثٍ: تَأْدِيئُهُ قَرْسَةً» وَفِي رَوَاتِهِ «مَلَاعِبُهُ بِقَرْسِهِ وَزَيْمُهُ عَنْ قَوْسِهِ وَمَلَاعِبُهُ مَعَ أَهْلِهِ» كِفَايَةُ وَكَذَا قَوْلُ الْإِمَامِ أَتَيْتُكَ دَلِيلَ عَلَى أَنَّهُ حَرَامٌ إِنْقَائِي، وَفِيهِ كَأَمْرٌ لِإِنَّ الْكَمَالَ فِيهِ فَرَاغُهُ مُتَأَمَّلًا... (قَوْلُهُ كَقَرْبِ قَضَبٍ) الَّذِي رَأَيْتُهُ فِي الْبَرَاذِيرِ قَضَبٍ بِالضَّادِ الْمُعْجَمَةِ وَالْمُشْتَبَّاهُ بِغَدَا (رد المحتار علي الدر المختار، ج ٦، ص ٨٤٣، إيج ايم سعيد كمبني)

Najmul Fatāwā, v. 1 p. 99, Dārul 'Ulūm Yāsīn al-Qur'ān

Imdādul Fatāwā, v. 6 p. 197, Maktabah Dārul 'Ulūm Karāchī

Kitabul Fatāwā, v. 4 p. 257, Zam Zam Publishers

Fatāwā Mahmūdiyyah, v. 15 p. 280, Darul Iftaa Jāmi' ah Fārūqiyyah

[قال الحصكفي] أَوْ شِعْرٌ إِلَّا مَا فِيهِ ذِكْرٌ

[قال ابن عابدين] (قَوْلُهُ أَوْ شِعْرٌ (إِلخ) قَالَ فِي الضِّيَاءِ الْمَعْنَوِيِّ: الْعَشْرُونَ أَيْ مِنْ أَقَاتِ اللِّسَانِ الشَّعْرُ سُبُلُ عَنْهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قِيلَ: «كَلَامٌ حَسَنُهُ حَسَنٌ وَفَهِيمُهُ قَبِيحٌ» وَمَعْنَاهُ أَنَّ الشَّعْرَ كَالشَّعْرِ يُحْمَدُ حِينَ يُحْمَدُ وَيُذَمُّ حِينَ يُذَمُّ. وَلَا بَأْسَ بِاسْتِجَاعِ تَشْيِيدِ الْأَعْرَابِ. وَهُوَ إِشَادُ الشَّعْرِ مِنْ غَيْرِ لَحْنٍ. وَيَحْرُمُ هَجْوُ مُسْلِمٍ وَلَوْ مِمَّا فِيهِ، قَالَ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «لَأَنَّ يَتَلَيَّنَ خَوْفُ أَحَدِكُمْ قَبِيحًا خَيْرٌ لَهُ مِنْ أَنْ يَتَلَيَّنَ شِعْرَهُ» فَمَا كَانَ مِنْهُ مِنَ الْوَعَطِ وَالْحَكَمِ وَذَكَرَ نِعَمَ اللَّهِ تَعَالَى وَصِفَةَ الْمُتَّقِينَ فَهُوَ حَسَنٌ. وَمَا كَانَ مِنْ ذِكْرِ الْأَطْلَالِ وَالْأَزْمَانِ وَالْأَهْمِ فَمُبَاحٌ. وَمَا كَانَ مِنْ هَجْوٍ وَسُخْفٍ فَحَرَامٌ. وَمَا كَانَ مِنْ وَصْفِ الْخُدُودِ وَالْفُؤُودِ وَالشُّعُورِ فَمَكْرُوهٌ كَذَا فَضْلُهُ أَبُو اللَّيْثِ الشَّعْرَقَانْدِيُّ. وَمَنْ كَثُرَ إِشَادُهُ وَإِشْأَاؤُهُ حِينَ تَنَزَّلَ بِهِ مُهْمَاتُهُ وَتَجَعَّلَهُ مَكْتَسِبَةً لَهُ تَنَفُّسُ مُرُوءَتِهِ وَتَوَرَّدَ شَهَادَتُهُ. اهـ

Fatāwā Mahmūdiyyah, 3 p. 250, Darul Iftaa Jāmi' ah Fārūqiyyah

Jāmi' al-Tirmidhī, 2846, The Chapters on Manners

Bukhārī, 3212, The Book on the Beginning of Creation

Fatāwā Mahmūdiyyah, v. 17 p. 430, Maktabah Mahmūdiyyah

Please note that there are many who use ahādīth that mention the use of a daff at times of nikāh and isolated opinions of some of our predecessors to prove the permissibility of using musical instruments in anāshīd and listening to them. However, this is contrary to ijma' and a misrepresentation of the actual context of such ahādīth. Please refer to the following article for more details: http://www.askimam.org/public/question_detail/28271

DUA FOR EXAMS

Q: I will soon have my final year dentistry final exams. Please tell me a Dua for success in exams.

A: You may recite the following Duas:

اللَّهُمَّ انْفَعْنِي بِمَا عَلَّمْتَنِي، وَعَلِّمْنِي مَا يَنْفَعُنِي، وَارْزُقْنِي عِلْمًا تَنْفَعُنِي بِهِ

Transliteration: Allahumma infa'ni bimaa 'allamtani wa'allimni maa yanfa'uuni warzuqni 'ilman tanfa'uni bihi.

Translation: Oh Allah! Make useful for me what you have taught me, (and) teach me knowledge that will be useful to me and grant me such knowledge that will benefit me.

اللَّهُمَّ لَا سَهْلَ إِلَّا مَا جَعَلْتَهُ سَهْلًا، وَأَنْتَ تَجْعَلُ الْحَزْنَ إِذَا شِئْتَ سَهْلًا

Transliteration: Allahumma la sahla illaa maa ja-'altahu sahlana wa anta taj'alu al hazna idha shi'ta sahlana.

Translation: Oh Allah! Nothing is easy except what you have made easy. If you wish, you can make the difficult easy.

عَدَّثَنَا أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ يَعْقُوبَ، ثنا الرَّيِّحِيُّ بْنُ سُلَيْمَانَ، ثنا عَبْدُ اللَّهِ بْنُ وَهَبٍ، أَخْبَرَنِي أَسَاءَةُ بْنُ زَيْدٍ، أَنَّ سُلَيْمَانَ بْنَ مَوْسَى حَدَّثَهُ، عَنْ مَكْحُولٍ، أَنَّهُ دَخَلَ عَلَى أَنَسِ بْنِ مَالِكٍ رَضِيَ اللَّهُ عَنْهُ، قَالَ: فَسَمِعْتُهُ يَذْكُرُ أَنَّ رَسُولَ اللَّهِ كَانَ، يَقُولُ: «اللَّهُمَّ انْفَعْنِي بِمَا عَلَّمْتَنِي، وَعَلِّمْنِي مَا يَنْفَعُنِي، وَارْزُقْنِي عِلْمًا تَنْفَعُنِي بِهِ» هَذَا حَدِيثٌ صَحِيحٌ عَلَى شَرْطِ مُسْلِمٍ، وَلَمْ يَخْرُجَاهُ [المستدرک للحاکم رقم الحديث ٩٧٨١، دار الكتب العلمية]

رَوَيْنَا فِي كِتَابِ ابْنِ السَّيْنِيِّ عَنْ أَنَسِ رَضِيَ اللَّهُ عَنْهُ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: "اللَّهُمَّ لَا سَهْلَ إِلَّا مَا جَعَلْتَهُ سَهْلًا وَأَنْتَ تَجْعَلُ الْحَزْنَ إِذَا شِئْتَ سَهْلًا". [الاذکار للنووي ص ٦٢١ دار الحديث القاهرة]

GOOGLE AND YOUTUBE

Q: Is it permissible to use Google and Youtube?

A: Google is a search engine that indexes web pages so that the user can search for and seek the information they desire through the use of keywords. YouTube is a video sharing website on which users can upload, view and share videos. The use of these websites is similar to the use of a car; they can be both beneficial and detrimental depending on what one uses them for.

If a person navigates and goes to impermissible places (websites) and views impermissible and illicit material (pornography, music, movies, interaction with the opposite gender etc.) then using websites such as Google and YouTube will be impermissible. However if a person uses these websites for beneficial and educational purposes; to listen to Quran, read literature, listen to speeches etc. then using these websites will be permissible.

If one fears that one will not be able to refrain from browsing impermissible content and material; even if the purpose of using the internet is permissible; he should refrain from browsing the internet altogether.

ويجوز بيع الربط والطبل والمزمار والترد، وأشباه ذلك في قول أبي حنيفة، وعندهما لا يجوز بيع هذه الأشياء. وجه قولهما: إن هذه الأشياء أعدت للمعصية حتى صارت بحال لا يستعمل إلا في المعصية، فسقطت مالياتها والتحققت بالعدم، ومن شرط جواز البيع المالية. ولأبي حنيفة: إن هذه الآلات ليست بمحرمة العين، وكونها آلة المعصية إنما يوجب سقوط النجوم والمالية إذا كانت متعينة للمعصية، وهذه الأشياء لم تتعين آلة للمعصية؛ لأن الانتفاع بهذه الأشياء ممكن بوجه حلال بأن يجعل الترد صنجات الموازين، والربط والطبل والدف ظروف الأشياء، وإذا لم تكن متعينة للمعصية تقومها كالمعصية فإنه لما تصور الانتفاع بعينها بطريق حلال لا يسقط تقومها ومالياتها حتى جاز بيعها كذا ههنا. (المحيط البرهاني - ج 9 - ص 433 - إدارة القرآن)

CIRCULATION OF UNAUTHENTIC MESSAGES

Q: A lot of such messages with unknown source keep on roaming and people spread these messages without confirming their authentication and when someone tries to find out the source he/she only finds a chain of senders leading to unknown source. Once I received a message as a translation of a verse from Surah Al-Mulk, and when I checked I found that there is no such verse in that Surah. In most of these messages, the receiver is asked to forward this message to as many people as possible.

Even some tactics are used sometimes for this purpose like emotional blackmailing, e.g., the person who likes this message will forward this, if you do not spread this something bad may happen to you, if you do this something good will happen to you, etc. I get worried in this situation as this is the matter of our Deen and this kind of things are misleading the people. Sometimes I think this may be the tactic of mobile companies to make money. As they know that we are very sensitive regarding our Deen, they use our sensitivity for their own material benefit as people send more and more text messages believing they are doing a good deed and as a result, these mobile companies make money. Kindly reflect on this.

A: In today's world of technology, it has become very easy to spread messages instantly. Unfortunately, there are many messages that are being circulated today that have no basis in Sharīah. There are severe warnings mentioned in Ahādīth for the one who fabricates a Hadīth against Rasūlullāh Sallallāhu Alaihi Wa Sallam. Rasūlullāh Sallallāhu Alaihi Wa Sallam said:

مَنْ كَذَبَ عَلَيَّ فَلْيَتَّبِعُوا مَقْعَدَهُ مِنَ النَّارِ (صحيح البخارى، بَابُ إِثْمِ مَنْ كَذَبَ عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ)

The one who lies against me should prepare his abode in the fire.
(Sahīh al-Bukhārī)

Hence, one should not send such messages to others until the status of such narrations is not verified from a competent Alim (scholar of Dīn). The Muhaddithīn (Hadīth experts) have clearly stated that it is impermissible to convey fabricated narrations.

The threats that are received in such emails should be ignored. Such threats hold no weight. The ability to give benefit and the ability to harm is only in the control of Almighty Allāh Taʿālā. Harm is not in the hands of any created entity. If one abstains from sending such messages due to not being aware of the authenticity of the narration, he is doing what is appropriate. He is not disobeying Allāh Taʿālā. Hence, there is no reason to believe that he will be afflicted with a punishment for not passing on the message.

Upon receiving such narrations, one should not accept them nor should one reject them. One should simply acknowledge that he/she does not know the reliability of such a narration. Thereafter, the Ulama should be referred to for guidance.

وَاتَّقُوا عَلَى تَحْرِيمِ رَوَايَةِ الْمَوْضُوعِ إِلَّا مَقْرُونًا بْبَيَانِهِ: لِقَوْلِهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "مَنْ حَدَّثَ عَنِّي بِحَدِيثٍ يُرَى أَنَّهُ كَذِبٌ فَهُوَ أَحَدُ الْكَاذِبِينَ"، أَخْرَجَهُ مُسْلِمٌ (نزهة النظر، حكم رواية الموضوع)

IS IT PERMISSIBLE TO GO FOR A HOLIDAY?

Q: Would it be permissible to go on a holiday?

A: As human beings, sometimes we need some time off or a small break to rejuvenate ourselves in order to function at our best. There is no prohibition regarding that in Shari'ah. As such, going on a holiday or vacation is permissible. However, one must be extremely cautious of the dos and don'ts when going for a holiday especially in these days of shamelessness and immorality. One's holiday must be strictly dictated by the laws of Shari'ah such that not a single activity should be contrary to it. It is with this in mind that we have compiled a brief guideline for those wishing to go out on a holiday.

1. Extravagance:

A common trait of people who go on holidays is extravagance. They book lavish 5 star hotels, dine in fancy restaurants, buy useless souvenirs and squander their money left and right. This behaviour is extremely disliked in Shari'ah. Consider the following verse:

إن المبذرين كانوا إخوان الشياطين وكان الشيطان لربه كفورا

Surely, squanderers (the extravagant) are brothers of satans, and the Satan is very ungrateful to his Lord.(Verse: 17:27)

Expounding on the issue of extravagance, Mufti Shafi' Saheb beautifully writes:

“The truth of the matter is that the course of moderation is very desirable in wearing what one wears and living where one lives, in almost everything. Sayyidna ‘Abdullah ibn ‘Abbas, radiyallahu anhu,

said: Eat and drink what you wish and wear what you like. But, take care of two things: One, that there be no Israf (excess from the measure of need) in it. Two, that there be no pride and arrogance about it.”

2. Imitating the disbelievers:

Due to heavy influence and excessive dosage of Western mass media, it is most unfortunate that the greatness of certain non-Islamic customs and practices has crept into the hearts of many Muslims.

Today, we find Muslims who refrain from committing sins due to the pressure of their respective communities. However, when these same Muslims are outside the range of the community’s prying eyes, Shaytan tries to exploit this and makes these individuals perform deeds they would otherwise refrain from. Thus, they fall into the trap of imitating the disbelievers, deeming it harmless even though imitating them in the way they dress, the way they interact, and in their manner of squandering wealth should be strictly avoided lest one falls under the ambit of this verse:

ولا تركنوا إلى الذين ظلموا فتمسكم النار وما لكم من دون الله من أولياء ثم لا تنصرون

And do not incline towards the wrongdoers, lest the Fire should catch you, and you have no supporters other than Allah, then you should not be helped. (Verse: 11:13)

Qadi al-Baidawi said, ‘following them in personal looks, fashion, and ways of living are all included under this very prohibition.’ The following hadith should also be born in mind:

عَنِ ابْنِ عُمَرَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ تَشَبَّهَ بِقَوْمٍ فَهُوَ مِنْهُمْ»

It has been narrated on the authority of Ibn ‘Umar (Radhiyallahu Anhu) that Nabi (Sallallahu Alaihi Wasallam) said, “Whosoever imitates or follows a nation, will be regarded from amongst them”.

Under the explanation of the abovementioned Hadith, it has been mentioned that whosoever imitates or replicates the clothing, etc. of the non-Mulims or transgresses the rules of Shari’ah will also have a share in their sins. Similarly, whosoever imitates the pious from amongst the believers will have a share in the rewards of those pious people.

3. Carelessness with regards to praying Salaah:

Salaah is one of the pillars of Islam. Missing even one salaah is a major sin. The severity of the matter should be clear from the following hadith:

عَنْ أَبِي سُوَيْبَانَ، قَالَ سَمِعْتُ جَابِرًا، يَقُولُ سَمِعْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ ” إِنَّ بَيْنَ الرَّجُلِ وَبَيْنَ الشَّرِّ وَالْكَفْرِ تَرَكَ الصَّلَاةَ “ .

It is narrated on the authority of Jabir that he heard the Apostle (may peace and blessings be upon him) saying. Verily between man and between polytheism and unbelief is the negligence of prayer. However, due to the busy schedule of people on their holidays, they tend to neglect performing their salaah timeously.

Some even feel ashamed to pray it in front of everyone and wait until they return to their hotels or guest houses to pray. This is totally against the dictates of Islam. Salaah should be performed as soon as its time enters. This will ensure that one’s holiday is not deprived of divine blessings and spirituality.

4. Covering the ‘awrah:

The Prophet, sallallahu alayhi wa sallam, commanded us to cover our ‘awrah. Covering one’s ‘awrah represents one’s hayaa, modesty and shame. It is a very essential quality for a Muslim to possess in this era of immorality and shamelessness. Consider the following hadith:

قَالَ: قُلْتُ: يَا رَسُولَ اللَّهِ عَوْرَاتُنَا مَا نَأْتِي مِنْهَا وَمَا نَذَرُ؟ قَالَ: احْفَظْ عَوْرَتَكَ إِلَّا مِنْ زَوْجَتِكَ أَوْ مَا مَلَكَتْ يَمِينُكَ، فَقَالَ: الرَّجُلُ يَكُونُ مَعَ الرَّجُلِ؟ قَالَ: إِنْ اسْتَطَعْتَ أَنْ لَا يَرَاهَا أَحَدٌ فافْعَلْ، قُلْتُ: وَالرَّجُلُ يَكُونُ خَالِيًا، قَالَ: فَاللَّهُ أَحَقُّ أَنْ يُسْتَحْيَا مِنْهُ.

Narrated Bahz bin Hakim: “My father narrated to me from my grandfather, who said: ‘I said: “O Messenger of Allah! Regarding our ‘Awrah, what of it must we cover and what of it may we leave?” He said: “Protect your ‘Awrah except from your wife or what your right hand possesses.” He said: “What about a man with another man?” He said: “If you are able to not let anyone see it, then do so.” I said: “What about a man when he is alone?” He said: “Allah is most deserving of being shy from Him.”

Some holiday locations are such that everyone is exposing their ‘awrah over there, such as beaches. As a Muslim it is essential that we don’t “go with the flow” and that we maintain our dignity and follow the command of Allah Ta’alaa and his beloved Prophet, sallallahu alayhi wa sallam, and keep our ‘awrah covered.

5. Lowering the Gaze:

One of the biggest challenges Muslims face when going on holidays is lowering the gaze. In places where it is considered “normal” to wear skimpy clothes and expose most of one’s body, a Muslim must lower his gaze and avoid looking at people’s ‘awrah. Allah Ta’alaa says in the Quran:

قُلْ لِّل مُؤْمِنِينَ يَغُضُّوْنَ مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَٰلِكَ أَزْكَىٰ لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ (٢٠٣) وَقُلْ لِّل مُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ...

Tell the believing men to lower their gaze and be modest. That is purer for them. Lo! Allah is aware of what they do. (30) And tell the believing women to lower their gaze...(Surah Noor)

Purposely looking at other people's 'awrah is a grave sin. This should be evident from the following hadith:

عَنِ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ لَمْ أَرْ شَيْئًا أَشْبَهَ بِاللِّمَمِ مِنْ قَوْلِ أَبِي هُرَيْرَةَ. حَدَّثَنِي مُحَمَّدٌ أَخْبَرَنَا عَبْدُ الرَّزَّاقِ أَخْبَرَنَا مَعْمَرٌ عَنِ ابْنِ طَاوُسٍ عَنْ أَبِيهِ عَنِ ابْنِ عَبَّاسٍ قَالَ مَا رَأَيْتُ شَيْئًا أَشْبَهَ بِاللِّمَمِ مِمَّا قَالَ أَبُو هُرَيْرَةَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " إِنَّ اللَّهَ كَتَبَ عَلَى ابْنِ آدَمَ حَظَّهُ مِنَ الزَّنا، أَدْرَكَ ذَٰلِكَ لَا مَحَالَةَ، فَرِثَ الْعَيْنِ النَّظْرُ، وَرِثَ اللِّسَانِ الْمَنْطِقُ، وَرِثَ الْفَرْجِ يَصْدُقُ ذَٰلِكَ كُلُّهُ وَيَكْذِبُهُ ".

Narrated Ibn `Abbas: I have not seen a thing resembling 'Iamam' (minor sins) than what Abu Huraira 'narrated from the Prophet who said "Allah has written for Adam's son his share of adultery which he commits inevitably. The adultery of the eyes is the sight (to gaze at a forbidden thing), the adultery of the tongue is the talk, and the inner self wishes and desires and the private parts testify all this or deny it."

6.Halal holiday location:

While this point may be extremely obvious, human beings sometimes need to be reminded of the obvious: the location of the holiday itself should be permissible. Going to places like casinos or night-clubs is not permissible.

In conclusion, while Allah Ta`ala has permitted us to enjoy ourselves in our free time, we must always remember to remain steadfast in our duties to Allah the Almighty regardless of where we are as we must ultimately answer to him for all of our deeds.

ISLAMIC ONLINE INSTITUTIONS

Q: What is your view on online institutions offering courses in Arabic, Hadeeth and Fiqh?

A: It is a blessing of Allah that one is given the yearning and desire to pursue ‘ilm (Knowledge of Deen). From the time of Rasulullah (salallahu alayhi wa sallam), the sacred sciences of Islam have been transferred from generation to generation, preserved and intact. The traditional way of passing down knowledge has always been from teacher to student, person to person, and this is still the preferred way for a person to gain ‘ilm. In this procedure, a student observes the conduct and Taqwaa of the teacher and he benefits from the Roohaniyyat (spirituality) of the teacher.

However, with the advent of technology, a lot of people who could not previously seek ‘ilm can do so now. Since situations vary from person to person, it is not always possible for one to leave his family and country and devote many years to learning ‘ilm. One might have obligations at home, financial responsibilities, or other issues because of which, a long term commitment away from home becomes unfeasible. Furthermore, the purpose of ‘ilm is not that one either becomes a full-fledged ‘alim or remains a layman. It is not about all or nothing. Rather, all of us have been made responsible and accountable for knowing at least ‘ilm al-hal (that is as much knowledge that is necessary for us at that particular moment in our life). For some that might be just wudu, salah, sawm (fasting), while for others who have been blessed with wealth it could entail zakat and hajj as well. For a businessman it would mean also learning fiqh al-buyoo’ (business transactions) and so on.

Nowadays, there is a dire need to learn ‘ilm from traditional sources due to the many misconceptions, erroneous ideologies and wide-

spread ignorance that have become rife in our society. In addition to that, we have been encouraged to pursue as much knowledge as our time and situation allows us to benefit ourselves and those around us. For this reason, enrolling in an online institute is a beneficial and practical option for many. Distant learning through communication is analogous to the concept of Kitabatul Hadith and Irsalu Hadith where the Muhadditheen used to benefit from each other by sending their compilations of Ahadith to each other. In the first Tarjumatul Baab (Subject) of Kitabal Eemaan of Bukhari Shareef, Imam Bukhari (Rahmatullahi Alayhi) refers to Umar Bin Abdul Azeez's letter to Adi who was from Musil in Iraq informing him on the fundamentals of Eemaan. He even expressed his wish to elaborate the issues of Eemaan for the people of Iraq.

If a person cannot travel or enroll in a traditional institution to study Islam, then he should take advantage of online institutes that have been set up by reliable and traditional 'ulama to learn as much he can. This way he will learn 'ilm that is necessary for him and also 'ilm that he can use to help and teach others, if his teachers permit him to do so.

Further, since the goal of knowledge to apply 'ilm to life with the niyyah (intention) to please Allah, the student enrolled online and the student in a traditional setting have the same purpose and goal. When the niyyah is correct, the 'ilm gained is visible in a person's actions and deeds. 'Ilm then is the name of that knowledge which manifests itself through application. As a result the one who applies what he learns from proper sources with the proper intention has in fact gained 'ilm.

Yes, the student studying online will not be at the same level under most circumstances as the one who spent years in a traditional institute. Neither will his struggles and sacrifices equal that of a

regular student. However a believer is rewarded according to his niyyah (intention), the rewards of Allah are infinite and Allah might open a way for him to complete his studies at a traditional institute, Insha-Allah.

IS SHE THE ‘ONE’?!

Q: I am at uni. I met this girl and we get along well. I believe I have developed strong feelings for her. However, I am not perusing a relationship as such because I understand its haram. Is it possible for me to do Istakhara to find out if shes the ‘one’ or not?

A: You state you met this girl and you get along well with her. At the onset, it should be understood that any type of unnecessary contact with a ghair mahramah girl is prohibited. A ghair mahramah girl is she with whom nikah is principally correct. The reason for the prohibition is to avoid developing lustful feelings for each other which will eventually lead to haram relationships. Your relationship towards this girl is also the consequence of the casual contact you have with this girl. Just as pursuing a relationship is haram, so too is the casual contact also haram as the consequences in both are the same.

If you wish to marry the girl, discuss the issue with your parents and also make istikhara to seek the guidance of Allah if the girl is good for you as a wife. Istikhara is not meant to find out if she is the “one”. It is to find out if the one you are interested in is good for you or not. Whether that is the “one” or not is something you should continue researching until you are guided to your taqdeer.

RULING OF THE VIDEO GAME - GOD OF WAR 3

Q: I just want to know Islamically where we stand when it comes to video games. I have just played a game called God of war 3 which is based on Greek mythology. Although I don't believe in any aspect of the game and its storyline a though had hit me that Islami-cally where do we stand when it comes to these games. Basically the character is someone that kills Greek Gods in the game based on Greek mythology.

I would greatly appreciate it if you could clear this up for me as I want to eliminate as many haram things from my life as I can.

A: Verily, Allah has created us for the purpose of His worship. One should adopt only those actions that lead us to the recog-nition, pleasure and nearness of Allah. Likewise, all futile and use-less activities which result in no good in both the worlds should be abandoned. Allah says, "And from among the people, there is he who buys the distracting amusement of things, so that he, being devoid of knowledge, may mislead (people) from the Way of Allah and make a mockery of it. Such people are the ones for whom there is a disgrace-ful punishment"

Video games generally fall in the category of amusement (lahw) and is thus detested and should be avoided. The perfection of a person`s faith and obedience is in his abstinence from that which is useless and brings forth no goodness.

The playing of video games not only prevents a person from using time effectively but generally involves listening to music and vulgar language, viewing indecent material and is also responsible for seri-ous social and psychological implications too.

It will be impermissible to play any video game which either:

- (1) brings forth no good in this world or the Hereafter;
- (2) Entails anything contrary to Islamic law;
- (3) Comprises more harm and evil than benefit and good;
- (4) Or is simply undertaken for amusement purposes and is a hindrance from total servitude to Allah.

The video game in question, 'God of War', nevertheless comprises of no goodness, involves violence and brutality against the creation, forms an addiction, and moreover, fundamentally many of the aspects contradict the tenets of Islamic faith. Amongst many factors, the game depicts 'God' as deceiving, cunning, helpless, prone to err and defeated. Allah, in reality, is pure from any defect or weakness and from similarity to any creation.

This game may have a detrimental effect to a person's faith and spiritual wellbeing. To attribute such characteristics to Allah even in play and joke will constitute kufr and disbelief.

The specific video game in reference, God of War 3, is clearly prohibited.

[Al-Qur'an: 51:56]

[Al-Qur'an: 25:72]

[Al-Quran: 31:6]

فاللعب وهو اللهو حرام بالنص...استماع اللهو حرام

[Radd al-Muhtar ala ad-Durr al-Mukhtar, vol.9, p. 575-6, Dar al-Ma'rifah, Beirut, Lebanon]

قال النبي (صلي الله عليه وسلم): من حسن اسلام المرأ تركه ما لايغنيه

[Al-Tirmidhi: 2470]

ان اللهو علي أنواع: لهو مجرد ، ولهو فيه نفع وفائدة ولكن ورد الشرع بالنهاي عنه ، ولهو فيه فائدة ولم يرد في الشرع نهى صريح عنه ، ولكنه ثبت بالتجربة أنه يكون ضرره أعظم من نفعه ملتحق بالمنهي عنه ، ولهو فيه فائدة ولم يرد الشرع بتحريمه ولم يغلب علي نفعه ضرره ولكن يشتغل فيه بقصد التلهي ، ولهو فيه فائدة مقصودة ولم يرد الشرع بتحريمه وليس فيه مفسدة دينية واشتغل به علي غرض صحيح لتحصيل الفائدة المطلوبة لا بقصد التلهي . فهذه خمسة أنواع لا جائز فيها إلا الأخير الخامس

Ahkam al-Qur'an, Vol.3, Page.201, Idarah al-Qu'ran Wa al-Ulomm al-Islamiyyah, Karachi, Pakistan;

Taqi al-Uthmani, Takmilah Fat'h al-Mulhim, Part. 4, Pages. 434-6. For a detail discussion please see:

Ahkam al-Qur'an, Vol 3, Pages.194-202

[Al-Qur'an: 42: 11]

ولاتبه الأنام

Sharh al-Aqeedah at-Tahawiyyah, Page.52, Dar al-Basa'ir
إذا وصف الله بما لا يليق به ... يكفر [264:5] إذا وصف الله تعالى بما لا يليق به يكفر [202:5, qī'aR-ra rhaB-la] awataF-IA

al-Alamkiriyyah, 2:258] In Fatawa Mahmoodiyyah 1:256, Dar al-Ifta Jamiah Farooqiyyah Karachi

واستحلال المحصية كفر والاستهانة بها كفر والاستهزاء علي الشريعة كفر

Sharh al-Aqaid an-Nasafiyyah, Page.193, Dar al-Beirut

SOCIAL MEDIA - FACEBOOK - TWEETING

Q: I want to know what is shariah ruling on using social media like twitter and facebook. Because I know lots of people scholars also use these social media alike twitter and they talk very freely to ghair mahram. In real life they wouldn't have the courage to go up in front of woman with niqab and a woman with niqab will not directly talk freely and joke also to a ghair mahram man. This is very common with social media users especially twitter I have noticed.

When we see scholars also behaving like this on social media it is very discouraging and bad example for the youth. The youth see scholars doing this and think this is ok. Random people chat on twitter as if they know each other. Through this small 'chit chat' a relationship is started. I have had personal experiences with my friends. How may girl 'friends' they have is shocking! ghair mahram women freely joke and comment for them and they re post on their social media and vice versa. Is all this permissible or even moral and ethical and befit for scholars especially to behave like this?

A: The ruling of social media will depend on the nature and contents of the medium. Since the dominant feature of Facebook is that a user generally views pictures, including those of the opposite gender, the use of Facebook will not be permitted.

On the other hand, with respect to a social medium like twitter, generally one may avoid viewing pictures of the opposite gender and other unlawful activities, and the medium can be used in a positive and permissible way. Hence, in principle, the ruling of twitter will depend on the person using it. If one uses it for good or acceptable reasons and he is sure he will not become involved in anything impermissible by using it, it will be permissible for him to do so.

On the other hand, if in one's general usage of twitter, he engages in some haram activity, like looking at pictures of the opposite gender, or freely and unnecessarily engaging in conversation with an unrelated member of the opposite gender, or there is a genuine fear of doing so, it will not be permissible for such a person to use twitter.

We cannot comment on the 'scholars' you refer to, and each case must be considered individually. But remember that each believer is held accountable only for his own actions. It is a believer's duty to ground his actions on the teachings of reliable and accepted scholars. He may not take the slips of a scholar as an example for himself.

It is reported from Rasūlullāh (sallAllāhu 'alayhi wasallam) that he said:

إياكم...وزلة العالم

“Beware of the slip of a scholar.”

Remember only prophets are infallible, and all people besides them are susceptible to errors and sins. Every person will be taken to task for his own actions, and each person is responsible to ensure that his actions are consistent with the teachings of Shari'ah.

قال في القنية من الكراهة: غلب على ظنه أن أكثر بيعات أهل السوق لا تخلو عن الفساد فإن كان الغالب هو الحرام تنزه عن شراءه
شرح الحموي، إدارة القرآن، ٩٠٣
قال تعالى: قل فيهما إثم كبير ومنافع للناس وإيهما أكبر من نفعهما

الأصل في كل شيء الإباحة
الأشباه والنظائر، إدارة القرآن، ٢٠٣
بيع الجارية المغنية لا يكره؛ لأنه ليس عينها منكراً وإنما المنكر في استعماله المحظور. كما صرح به صاحب ((التيبين)) 3: 792، و((رمز الحقائق)) 1: 923، و((النهر
الفاثق)) 3: 862، و((حاشية أبي السعود)) 3: 604
خلاصة الكلام في مسألة الإعانة على الحرام

شرح أصول اعتقاد أهل السنة والجماعة، 1: ٦١١

THE REALITY OF SIHR AND JINN IN ISLĀM

Q: What does sharia says about jadu (black magic) and Jinnat, whereby it is prevailing in our society and families are really in deep troubles and strongly trying to follow Taweez from maulanas coming from more specially India/Pakistan etc. They ask us to open a page from Qur'aan shareef, that he will translate and will say something about our problems. Recently a wife was told few very bad things happening to her in the presence of a husband and on hearing all sort of things, a husband was grossly unhappy and they both had hot tempered arguments. Now I am requesting for more knowledge and guidance over this matter. Secondly is it permissible to engage such treatment of taawiz for some body in the family without his/her permission and knowledge.

A: The presence of Jādū/Sihr (black magic) and Jinn is undoubtedly common in the world. It cannot be entirely negated and overlooked because the Qur'ān and Ahādīth also to allude to the different aspects regarding this. Further, the precautionary measures to be adopted against the evils of these aspects and the cure for those who have been afflicted have also been mentioned in the Qur'ān and Ahādīth.

As far as Sihr (black magic) is concerned, Rasulullāh Sallallāhu Alayhi Wa Sallam was also afflicted by this. A Jew by the name of Labīd Ibn Aṣam carried out black magic on him by tying eleven knots in a few strands of his sacred hair and placing it under a rock in an unused well. This affected Rasulullāh Sallallāhu Alayhi Wa Sallam in such a way that it created uncertainty in his mind as to whether he had done a certain action or not. Allāh informed him through revelation of this Sihr (black magic).

As far as the Jinn are concerned, they are one of the Divine creations of Allāh. They, like human beings, have a physical form, intellect and senses, but are hidden from the human eye. The existence of Jinn is established by conclusive and incontestable evidence in the Qurʾān and Sunnah.

Allāh says in the Qurʾān:

وَلَقَدْ خَلَقْنَا الْإِنْسَانَ مِنْ صَلْصَالٍ مِنْ حَمَإٍ مَسْنُونٍ. وَالْجَانَّ خَلَقْنَاهُ مِنْ قَبْلُ مِنْ نَارِ السَّمُومِ

“And certainly We have created mankind from sounding clay made of decayed mud. As for Jinn, We had created them earlier from the fire of the scorching wind.”

The creation of Jinn was well before that of humankind and they had wreaked havoc in the earth right from the beginning. Allāh alludes to this in the Qurʾān:

وَإِذْ قَالَ رَبُّكَ لِلْمَلَائِكَةِ إِنِّي جَاعِلٌ فِي الْأَرْضِ خَلِيفَةً قَالُوا أَتَجْعَلُ فِيهَا مَنْ يُفْسِدُ فِيهَا وَيَسْفِكُ الدِّمَاءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ

“Remember when your lord said to the angels, ‘I am going to create a deputy on the earth.’ They said, ‘Will You create there one who will spread disorder on the earth and cause bloodshed, while we proclaim

Your purity along with your praise, and sanctify your name?”

This was after the angels had witnessed the mischief of the Jinn on earth. However, just as humans, Allāh has created Jinn for his obedience and subservience. Allāh says:

وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِ

“And I have not created Jinn and human beings except that they worship me.”

However, as is the case with humankind, there are those that are obedient to Allāh and those that are disobedient. It is these disobedient ones that cause mischief in on earth. They have the potential of harming humans. However, one should not be fearful of Jinn. It is the fear that people have of them that gives them the courage to cause mischief and harm. The people of Arabia would live in great fear of these Jinn before the advent of Islām. It was customary in the days of ignorance that when people halted in a jungle or valley in the course of a journey, they uttered the following words, believing that the leader of the valley (a Jinn) would protect them:

“I seek refuge in the leader of this valley from the foolish mischief-makers of his nation.”

Allāh discusses this in the Qur’ān:

وَأَنَّهُ كَانَ رِجَالٌ مِنَ الْإِنسِ يُعُودُونَ بِرِجَالٍ مِنَ الْجِنَّ فَرَادُوهُمْ رَهَقًا

“And some individuals of the humans would seek refuge in some individuals of the Jinn, and thus they (humans) increased their (Jinn’s) mischief.”

Islām distances itself from such a level of fear and belief in the Jinn that they are superior to humans and humans should remain fearful

of them. The mischief and evils of Jinn cannot be negated. However, it is inappropriate to attribute every unusual occurrence, illness and difficulty to the Jinn.

Sihr (black magic) and the Jinn are most definitely effective. However, it should be noted that every illness, discomfort and calamity cannot attributed on Sihr (black magic) as is the common practice of people nowadays. It should be born in mind that whilst Sihr (black magic) is effective in nature, it is not as common as people consider it to be. Often people afflicted with medical issues tend to turn towards an Aamil, totally neglecting the medical aspect. It is incumbent that one exhausts all medical treatment before turning towards ascertaining whether it is the effect of Sihr (black magic) or not.

Furthermore, the practice of curing people of the effects of Sihr (black magic) has become a commercial practice and many incompetent Aamils have taken up the practice. Hence, one should be wary of the legitimacy of the Aamils as they tend to untruthfully diagnose people with having effects of Sihr (black magic), in the process accusing others of having carried out the Sihr (black magic). This often causes animosity and disputes amongst close families.

In curing oneself, one is not bound to engage an Aamil to do so. Shari'ah has educated us on a number of practices that one may adopt on his own in trying to alleviate Sihr (black magic).

The following are methods that one may adopt:

1. Recitation of Surah Falaq and Surah Nās, blowing on the hands and thereafter rubbing them on oneself. Nabi Sallallāhu Alayhi Wa Sallam would do this during illness and before retiring to bed. These Surahs were revealed as a cure after the Jew, Labid Ibn A'sam, had bewitched Rasulullāh Sallallāhu Alayhi Wa Sallam. Ā'isha Radhi Allāhu 'Anhā narrates that whenever the Rasulullāh

Sallallāhu Alayhi Wa Sallam would become ill, he would recite the Mu'awwizat (Surah al-Falaq and Surah an-Nas) and blow over himself. When his illness was aggravated, I used to recite these two Surahs (and blow my breath) over him and make him rub his body with his own hand, for its blessings.”

2. Recitation of the first three verses of Surah Mu'min/Ghafir and Āyat-ul-Kursī every morning and evening.

3. The reading of the Manzil (by Hadhrat Maulānā Muhammad Zakariyyā Kandhalwī) has proven to be extremely effective for protection against the evil influence of Jinn, Sihr (black magic), and other evils. It contains only verses of the Qur'an.

Allāh Ta'ala says in the Qur'an:

وَنُنَزِّلُ مِنَ الْقُرْآنِ مَا هُوَ شِفَاءٌ وَرَحْمَةٌ لِّلْمُؤْمِنِينَ.

“And We have revealed in the Qur'an that which is a cure and mercy for the believers.”

5. Recitation of the following du'ās prescribed in the Ahādith:
Read three times every morning and evening:

بِسْمِ اللَّهِ الَّذِي لَا يَضُرُّ مَعَ اسْمِهِ شَيْءٌ فِي الْأَرْضِ وَلَا فِي السَّمَاءِ وَهُوَ السَّمِيعُ الْعَلِيمُ

Transliteration: “Bismillahi-lladhi La Yadhurru Ma'asmihi Shay'un Fil Ardhi Wa La Fis-Samaa'i Wa Huwas-Samee'-ul-'Aleem.”

Translation: “In the name of Allāh with virtue of whose name nothing in the earth nor the skies can harm. He is the ever-hearing and most knowledgeable.”

Read every morning and evening:

أَعُوذُ بِكَلِمَاتِ اللَّهِ التَّامَّاتِ مِنْ شَرِّ مَا خَلَقَ

Transliteration: “A’uudhu Bikalimaatillahi-ttammaati Min Sharri Mā Khalaq.”

Translation: “I seek protection of Allāh’s perfect words from every evil that He has created.”

6. The eating of Ajwah dates has also been prescribed in the Hadīth. Rasullāh Sallallāhu Alayhi Wa Sallam said, “One who eats seven ‘Ajwah dates in the morning shall not be harmed that day by any poison or Sihr (magic).”

7. The famous Tabi’i, Ka’b al-Ahbār Radhi Allāhu ‘Anhu mentions, “Had it not been for a few phrases that I recite (regularly), the Jews would have turned me into a donkey (through black magic). He was asked, “What are these phrases?” He replied:

أَعُوذُ بِوَجْهِ اللَّهِ الْعَظِيمِ. الَّذِي لَيْسَ شَيْءٌ أَكْبَمَ مِنْهُ. وَبِكَلِمَاتِ اللَّهِ التَّامَّاتِ الَّتِي لَا يَجَاوِزُهُنَّ بَرٌّ وَلَا فَاجِرٌ.
وَبِأَسْمَاءِ اللَّهِ الْحُسْنَى كُلِّهَا. مَا عَلِمْتُ مِنْهَا وَمَا لَمْ أَعْلَمْ. مِنْ شَرِّ مَا خَلَقَ وَبَرًّا وَذَرًّا.

Transliteration: “A’uuzu bi wajhillāh al-Adhīm alladhi laysa shay’un a’dhamu minhu wa bi kalimatillāh at-tammaati allati la yujawizu-hunna barrun wa la faajir wa bi asmaa-illāh al-husnaa kullihāa ma alimtu minha wa ma lam a’lam min sharri ma khalaqa wa bara’a wa dhara’a.”

Translation: “I seek the protection of Allāh the Great; He, than whom there is nothing greater. And I seek the protection of the perfect words of Allāh which no man, virtuous or evil, can even transcend; and I seek the protection of all the beautiful names of Allāh, those of

them which I know and those which I do not know, from the evil of everything He (Allāh) created, to which He has given existence, and which He has spread (over the earth).”

8. The wearing of a Ta’weez (amulet) that contains Āyāt of the Qur’ān or the names of Allāh or a du’ā mentioned in the Hadīth. However, the Āyāt of the Qur’ān and those du’ās that are mentioned in the Ahādīth are more effective and beneficial than the wearing of a Ta’weez.

Whilst at times it may be necessary to employ the services of a Aamil, it should be ascertained that he is reliable, competent and he abides to Shari’ah in his practice of curing people. In such times of moral corruption, there are many Aamils who are unconcerned of maintaining Shar’ī practices in their work.

Shari’ah has given permission of engaging in treatment through Ruqyah - which is one of the most common ways Aamils adopt in curing the afflicted. Ruqyah refers to the recitation of verses or words followed by blowing on a person. Ruqyah is permissible with the following conditions: No such words are recited which constitute Kufr or witchcraft. It is in a language that is generally understood by the people. It is preferable to recite in Arabic, specifically verses of the Qur’ān, du’ās from the Ahādīth and the attributes of Allāh.

One has faith that the Ruqyah in itself is not effective but Allāh has placed the effect of curing in it. As far as engaging in the treatment of a family member without his consent is concerned, it is not advisable to do so as it may lead to unwanted problems and quarrels in the family. The concerned family member should be advised, firstly, to undergo medical treatment and if that fails, then he/she should be advised to try any of the abovementioned methods of treatment.

الحجر: 62 - 72

البقرة: 03

الذاريات: 65

الجن: 6

سنن أبي داود، (مكتبة رشيدية) 986

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ وَيَزِيدُ بْنُ خَالِدٍ بِنُ عَبْدِ اللَّهِ بْنِ مَوْهَبٍ الْهَمْدَانِيُّ، قَالَ: حَدَّثَنَا الْمُفَضَّلُ -يَعْنِيَانِ ابْنَ قُضَالَةَ- عَنْ عُقَيْلٍ، عَنْ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ عَنْ عَائِشَةَ: أَنَّ النَّبِيَّ -صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ- كَانَ إِذَا أَوَى إِلَى فِرَاشِهِ كُلِّ لَيْلَةٍ جَمَعَ كُفْيَهُ، ثُمَّ تَغَيَّثَ فِيهِمَا، وَقَرَأَ فِيهِمَا: {قُلْ هُوَ اللَّهُ أَحَدٌ، وَ {قُلْ أَعُوذُ بِرَبِّ الْفَلَقِ}، وَ {قُلْ أَعُوذُ بِرَبِّ النَّاسِ}، ثُمَّ يَسْجُدُ بِهِمَا مَا اسْتَطَاعَ

سنن أبي داود، (مكتبة رشيدية) 602

حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ الثَّمَلِيُّ، حَدَّثَنَا مُحَمَّدُ بْنُ سَلَمَةَ، عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ، عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ الْمَقْبَرِيِّ، عَنْ أَبِيهِ عَنْ عُقَيْبَةَ بْنِ عَامِرٍ قَالَ: بَيْنَا أَنَا أَسِيرُ مَعَ رَسُولِ اللَّهِ -صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ- بَيْنَ الْجُحَفَةِ وَالْأَبْوَاءِ، إِذْ غَشِيَتَنَا رِيحٌ وَظُلْمَةٌ شَدِيدَةٌ، فَبَعَلَ رَسُولُ اللَّهِ -صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ- يَتَعَوَّذُ بِ {قُلْ أَعُوذُ بِرَبِّ الْفَلَقِ} وَ {قُلْ أَعُوذُ بِرَبِّ النَّاسِ} ويقول: "يَا عُقَيْبَةُ، تَعَوَّذْ بِهِمَا، فَمَا تَعَوَّذَ مِثْلَهُمَا" قَالَ: وَسَمِعْتُهُ يُؤَمِّنُ بِهِمَا فِي الصَّلَاةِ

صحيح البخاري (836/8) [دار البشائر الإسلامية]

حَدَّثَنِي جِبَانٌ، أَخْبَرَنَا عَبْدُ اللَّهِ، أَخْبَرَنَا يُونُسُ، عَنْ ابْنِ شِهَابٍ، قَالَ: أَخْبَرَنِي عُرْوَةُ، أَنَّ عَائِشَةَ، رَضِيَ اللَّهُ عَنْهَا، أَخْبَرَتْهُ: "أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ إِذَا اشْتَكَى نَفَثَ عَلَى نَفْسِهِ بِالْمَعُودَاتِ، وَمَسَحَ عَنْهُ بِيَدِهِ، فَلَمَّا اشْتَكَى وَجَعَهُ الَّذِي تَوَفَّى فِيهِ، طَفَقَتْ أَنْفَثَ عَلَى نَفْسِهِ بِالْمَعُودَاتِ الَّتِي كَانَ يَنْفَثُ، وَأَمْسَحَ بِيَدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْهُ"

سنن الترمذي ت بشار (941/5) [الرسالة العالمية]

حَدَّثَنَا يَحْيَى بْنُ الْمُفَيْرَةِ أَبُو سَلَمَةَ الْخَزْزُومِيُّ الْمَدِينِيُّ، قَالَ: حَدَّثَنَا ابْنُ أَبِي فُدَيْكٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي بَكْرِ الْمُلَيْكِيِّ، عَنْ زُرَّارَةَ بْنِ مُصْعَبٍ، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَنْ قَرَأَ حَمَّ الْمُؤْمِنِ إِلَى {إِلَهِهِ الْمَصِيرِ} وَآيَةِ الْكُرْسِيِّ حَفِظَ بِهِمَا حَتَّى يَمُوتَ، وَمَنْ قَرَأَهُمَا حِينَ يَمُوتُ حَفِظَ بِهِمَا حَتَّى يُصْبِحَ.

صحيح البخاري (15/5) [دار البشائر الإسلامية]

وقال عثمان بن الهيثم أبو عمرو، حدثنا عوف، عن محمد بن سيرين، عن أبي هريرة رضي الله عنه، قال: وكنتي رسول الله صلى الله عليه وسلم يحفظ زكاة رمضان، فأتاني أت ففعل يحضو من الطعام فأخذته، وقلت: والله لأرفعنك إلى رسول الله صلى الله عليه وسلم، قال: إني محتاج، وعلي عيال ولي حاجة شديدة، قال: فخليت عنه، فأصبحت، فقال النبي صلى الله عليه وسلم: «يا أبا هريرة، ما فعل أسيرك البارحة»، قال: قلت: يا رسول الله، شكا حاجة شديدة، وعيالا، فرحمته، فخليت سبيله، قال: «أما إنه قد كذبك، وسيعود»، فعدت أنه سيعود، لقول رسول الله صلى الله عليه وسلم إنه سيعود، فرصدته، فجاء يحضو من الطعام، فأخذته، فقلت: لأرفعنك إلى رسول الله صلى الله عليه وسلم، قال: دعني فإني محتاج وعلي عيال، لا أعود، فرحمته، فخليت سبيله، فأصبحت، فقال لي رسول الله صلى الله عليه وسلم: «يا أبا هريرة، ما فعل أسيرك»، قلت: يا رسول الله شكا حاجة شديدة، وعيالا، فرحمته، فخليت سبيله، قال: «أما إنه قد كذبك وسيعود»، فرصدته الثالثة، فجاء يحضو من الطعام، فأخذته، فقلت: لأرفعنك إلى رسول الله، وهذا آخر ثلاث مرات، أنك تزعم لا تعود، ثم تعود قال: دعني أعلمك كلمات ينفعك الله بها، قلت: ما هو؟ قال: إذا أويت إلى فراشك، فأقرأ آية الكرسي: {اللله لا إله إلا هو الحي القيوم} [البقرة: 552]، حتى تختتم الآية، فإنك لن يزال عليك من الله حافظ، ولا يقربك شيطان حتى تصبح، فخليت سبيله، فأصبحت فقال لي رسول الله صلى الله عليه وسلم: «ما فعل أسيرك البارحة»، قلت: يا رسول الله، زعم أنه يعلمني كلمات ينفعني الله بها، فخليت سبيله، قال: «ما هي»، قلت: قال لي: إذا أويت إلى فراشك فأقرأ آية الكرسي من أولها حتى تختتم الآية: {اللله لا إله إلا هو الحي القيوم} [البقرة: 552]، وقال لي: لن يزال عليك من الله حافظ، ولا يقربك شيطان حتى تصبح - وكانوا أحرص شيء - على الخير - فقال النبي صلى الله عليه وسلم: «أما إنه قد صدقك وهو كذوب، تعلم من تخاطب منذ ثلاث ليل يا أبا هريرة»، قال: لا، قال: «ذاك شيطان»

سورة بني إسرائيل: ٢٨

جامع الترمذي ، ج 6 ، 71 [الرسالة العالمية]

جامع الترمذي ، ج 6 ، 06 [الرسالة العالمية]

سنن أبي داود ت، 145 (مكتبة رشيدية)

حَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا أَبُو أَسَمَةَ، حَدَّثَنَا هَاشِمُ بْنُ هَاشِمٍ، عَنْ عَامِرِ بْنِ سَعْدٍ بْنِ أَبِي وَقَّاصٍ عَنْ أَبِيهِ، عَنِ النَّبِيِّ -صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ-، قَالَ: "مَنْ تَصَبَّحَ سَبَّحَ تَهْرَاتٍ عَجُوزٍ، لَمْ يَهْرَءْ ذَلِكَ الْيَوْمُ سُمْ وَلَا سَحَرٌ"

موطأ مالك ت الأعظمي

مَالِكٌ، عَنْ سَمِيِّ مَوْلَى ابْنِ بَكْرِ، عَنْ الْقَعْقَاعِ بْنِ حَكِيمٍ: أَنَّ كُتَيْبَ الْأَخْبَارِ قَالَ: تَوَلَّأَ كَلِمَاتٍ أَقُولُهُنَّ لَتَحْلَتَنِي يَهُودُ حِمَارًا قَبِيلَ لَهْ، وَمَا هُنَّ؟ فَقَالَ: أَعُوذُ بِوَجْهِهِ اللَّهِ الْعَظِيمِ، الَّذِي لَا يَسِيءُ شَيْءٌ أَكْثَمَ مِنْهُ، وَكَلِمَاتٍ إِلِهِ التَّائِمَاتِ الَّتِي لَا يَجَاوِزُهُنَّ بَرٌّ وَلَا فَاجِرٌ، وَيَأْسُمُهُ إِلِهِ الْخُسْتَى كَلِمًا، مَا عَلِمْتُ مِنْهَا وَمَا لَمْ أَعْلَمْ، مِنْ شَرِّ مَا خَلَقَ وَبَرَّآ وَذَرَّآ.

الدر المختار وحاشية ابن عابدين (رد المحتار) (363/6) [سعيد]
أقول: الذي رأيته في المصنعي الثميمة المذكورة ما كان بغير القرآن، وقيل: هي الخُرزة التي تعلقها الجاهليّة اهـ فلتراجع نسخة أخرى. وفي المغرب وبعضهم يتوهم
أن المعاديات هي الثمائم وليس كذلك إنما الثميمة الخُرزة، ولا بأس بالمعاديات إذا كُتِبَ فيها القرآن، أو أسماء الله تعالى،
السنن الكبرى للبيهقي (9/905)

خبرنا أبو عبد الله الحافظ، وأبو سعيد بن أبي عمرو قالوا: ثنا أبو العباس، ثنا هارون، ثنا عبد الرحمن بن مهدي، عن شعبة، عن قتادة، عن واقع بن سبتان، عن أبي
ربيع جابر، قال: قال عبد الله رضي الله عنه: من تعلق شيئاً وكلٍ إليه قال: وعدّنا عبد الرحمن بن مهدي، عن جرير بن خازم قال: سمعت الحسن قال: قال رسول
الله صلى الله عليه وسلم: " من تعلق شيئاً وكلٍ إليه. قال: وعدّنا عبد الرحمن بن مهدي، عن شعبة، عن الحجاج، عن فضيل، أن سعيد بن جبّير كان يكتب لإبيه
المُعَاذَةَ. قال: وسألت عطاءً فقال: ما كنّا نكرهها إلّا شيئاً جاءنا من قبلكم
السنن الكبرى للبيهقي (9/905)

21691 - أخبرنا أبو زكريا بن أبي إسحاق، وأبو بكر بن الحسن قالوا: ثنا أبو العباس الأصم، ثنا بحر بن نصر، ثنا ابن وهب، أخبرني نافع بن يزيد، أنه سأل يحيى بن
سعيد عن الرقى وتعليق الكتب، فقال: كان سعيد بن المسيّب يأمر بتعليق القرآن وقال: لا بأس به.

الدر المختار وحاشية ابن عابدين (رد المحتار) (363/6) [سعيد]
(قوله الثميمة المذكورة) أقول: الذي رأيته في المصنعي الثميمة المذكورة ما كان بغير القرآن، وقيل: هي الخُرزة التي تعلقها الجاهليّة اهـ فلتراجع نسخة أخرى. وفي
المغرب وبعضهم يتوهم أن المعاديات هي الثمائم وليس كذلك إنما الثميمة الخُرزة، ولا بأس بالمعاديات إذا كُتِبَ فيها القرآن، أو أسماء الله تعالى، ويُقال رقاؤه الرقابي
رقياً وبقية إذا عودّه ونقش في عودته قالوا: إنما تكره العودّة إذا كانت بغير لسان العرب، ولا يُدْرَى ما هو وتعلّقه يدخله سحر أو حُرّ أو غير ذلك، وأمّا ما كان من القرآن
أو شيء من الدعوات فلا بأس به اهـ

فتح الباري لابن حجر (01/022)، [دار الحديث]

وقد أجمع العلماء على جواز الرقى عند اجتماع ثلاثة شروط أن يكون بکلام الله تعالى أو بأسمائه وصفاته وباللسان العربي أو بما يُعرف معناه من غيره وأن يُعتقد أن
الرقية لا تؤثر بذاتها بل بذات الله تعالى واحتلّفوا في كونها شرطاً والراجح أنه لا بُدّ من اختيار الشروط المذكورة فهي صحيح مسلم من حديث عوف بن مالك قال كنّا
نرقي في الجاهليّة فقلنا يا رسول الله كيف ترى في ذلك فقال اغرضوا عليّ رقاكم لا بأس بالرقى ما لم يكن فيه شرك وله من حديث جابر بن عبد الله رضي الله عنه
وسلم عن الرقى فجاء آل عمرو بن حزم فقالوا يا رسول الله إنه كان عندنا رقية نرقي بها من العُقرَب قال فعرضوا عليه فقال ما أرى بأساً من استطاع أن ينفع أخاه
فلينفعه وقد نسك قوم بهذا العُصوم فأجأوا كل رقية حُرِّبَتْ منفعتها ولو لم يُعقل معناه لكن دلّ حديث عوف أنه مهمّا كان من الرقى يؤذي إلى الشرك مُنْعَج وما لا
يُعقل معناه لا يؤمن أن يؤذي إلى الشرك فيمتنع احتياطاً والشرط الآخر لا بُدّ منه

أحسن الفتاوى، (552/6)، (سعيد)

فتاوى محمودية، 45/02، (فاروقية)

MASNOON DUAS IN NAFL SALAH

- Q** : 1) Can i recite duas in my salat?
2) What positions are best for dua in salat? (ie sajdah)
3) is there any recommendations in regard to particular duas?
4) What dua is to be made after durood sharif?
5) If i have completed Hajj are all sins forgiven including missed salats?
6) is prawns and squid permissible to eat? (the answers i can see are some say yes some say no?)
7) When reciting quran in salat what is the minimum length one must recite, (ie can you recite Ayat al kursi, the first 10 lines of surah baqarah etc.?)

A : 1. It is permissible to recite duas established from the Ahadith in nafl prayers. As far as Fardh prayers are concerned, you should restrict yourself to reciting the usual tasbeeh of

سبحان ربى العظيم

in Ruku and

سبحان ربى الاعلى

in Sajdah.

2. One may supplicate to Allah in any position of Salah. However, the state of prostration is the most humble and liked position to Allah so it will be recommended to make the duas in this position. It is also mentioned in Sahih Muslim:

فَإِذَا الرُّكُوعُ فَعَظِّمُوا فِيهِ الرَّبَّ عَزَّ وَجَلَّ، وَإِذَا السُّجُودُ فَاجْتَهِدُوا فِي الدُّعَاءِ، فَقَدْ أُنْشِئَتْ جَابِلُكُمْ

So far as Ruk'u is concerned, extol (praise) in the Great and Glorious Lord, and while prostrating yourselves, be earnest in supplication (dua), for it is fitting that your supplications should be answered.

أَقْرَبُ مَا يَكُونُ الْعَبْدُ مِنْ رَبِّهِ وَهُوَ سَاجِدٌ، فَأَكْبِرُوا الدُّعَاءَ

The nearest a servant comes to his Lord is when he is prostrating himself, so make supplication (in this state).

3. Some of the duas that the Prophet Sallallahu Alayhi wasallam used to recite in Nafl Salawaat are as follows:

Ruku:

سُبْحَانَكَ اللَّهُمَّ رَبَّنَا وَبِحَمْدِكَ، اللَّهُمَّ اغْفِرْ لِي

اللَّهُمَّ لَكَ رَكَعْتُ، وَبِكَ آمَنْتُ، وَلَكَ أَسْلَمْتُ؛ خَضَعَ لَكَ سَمْعِي وَبَصَرِي وَمُخِّي وَعَظْمِي وَعَصْبِي

اللَّهُمَّ لَكَ رَكَعْتُ، وَبِكَ آمَنْتُ، وَلَكَ أَسْلَمْتُ؛ خَشَعَ سَمْعِي وَبَصَرِي وَمُخِّي وَعَظْمِي، وَمَا اسْتَقَلَّتْ بِهِ قَدَمِي إِلَيْهِ رَبِّ الْعَالَمِينَ

سُبُّوحٌ قُدُّوسٌ، رَبُّ الْمَلَائِكَةِ وَالرُّوحِ

سُبْحَانَ ذِي الْجَبَرُوتِ وَالْمَلَكُوتِ، وَالْكِبَرِيَاءِ وَالْعِظَمَةِ

Qaumah/Standing after Ruku:

رَبَّنَا لَكَ الْحَمْدُ، حَمْدًا كَثِيرًا طَيِّبًا مُبَارَكًا فِيهِ، مِلْءُ السَّمَوَاتِ وَمِلْءُ الْأَرْضِ، وَمِلْءُ مَا بَيْنَهُمَا، وَمِلْءُ مَا شِئْتَ مِنْ شَيْءٍ بَعْدَ أَهْلِ الثَّنَاءِ وَالْمَجْدِ، أَحَقُّ مَا قَالَ الْعَبْدُ، وَكَلِمَاتُكَ عَبْدُكَ، لَا مَانِعَ لِمَا أَعْطَيْتَ، وَلَا مُعْطِي لِمَا مَنَعْتَ، وَلَا يَنْفَعُ ذَا الْجَدِّ مِنْكَ الْجَدُّ

سَمِعَ اللَّهُ لِمَنْ حَمِدَهُ، رَبَّنَا لَكَ الْحَمْدُ، مِلْءُ السَّمَوَاتِ وَمِلْءُ الْأَرْضِ وَمِلْءُ مَا شِئْتَ مِنْ شَيْءٍ بَعْدَ

اللَّهُمَّ رَبَّنَا لَكَ الْحَمْدُ، مِلْءَ السَّمَوَاتِ وَالْأَرْضِ، وَمِلْءَ مَا شئتَ مِنْ شَيْءٍ بَعْدُ، أَهْلَ الثَّنَاءِ وَالْمَجْدِ، أَحَقُّ مَا قَالَ الْعَبْدُ، وَكَلْنَا لَكَ عَبْدُكَ؛ اللَّهُمَّ لَا مَانِعَ لِمَا أَعْطَيْتَ، وَلَا مُعْطِيَ لِمَا مَنَعْتَ، وَلَا يَنْفَعُ ذَا الْجَدِّ مِنْكَ الْجَدُّ

ربنا لك الحمد ملء السموات وملء الأرض وما بينهما، وملء ما شئت من شيء بعد

رَبَّنَا وَلَكَ الْحَمْدُ، حَمْدًا كَثِيرًا طَيِّبًا مُبَارَكًا فِيهِ

Sajdah:

سُبْحَانَكَ اللَّهُمَّ رَبَّنَا وَبِحَمْدِكَ، اللَّهُمَّ اغْفِرْ لِي

سُبُّوحٌ قُدُّوسٌ، رَبُّ الْمَلَائِكَةِ وَالرُّوحِ

اللَّهُمَّ لَكَ سَجَدْتُ، وَبِكَ آمَنْتُ، وَلَكَ أَسْلَمْتُ، سَجَدَ وَجْهِي لِلَّذِي خَلَقَهُ وَصَوَّرَهُ، وَشَقَّ سَمْعَهُ وَبَصَرَهُ، تَبَارَكَ اللَّهُ أَحْسَنُ الْخَالِقِينَ

سُبْحَانَ ذِي الْجَبَرُوتِ وَالْمَلَائِكَةِ وَالْكَرِيَّاءِ وَالْعِظَمَةِ

سُبْحَانَكَ وَبِحَمْدِكَ، لَا إِلَهَ إِلَّا أَنْتَ

اللَّهُمَّ أَعُوذُ بِرِضَاكَ مِنْ سَخِطِكَ، وَبِعَفَاكَ مِنْ عِقُوبَتِكَ، وَأَعُوذُ بِكَ مِنْكَ لَا أَحْصِي ثَنَاءَ عَلَيْكَ أَنْتَ كَمَا أَثْنَيْتَ عَلَى نَفْسِكَ

اللَّهُمَّ اغْفِرْ لِي ذَنْبِي كُلَّهُ، دِقَّةَ وَجِلِهِ، وَأَوَّلَهُ وَأَخِرَهُ، وَعَلَانِيَتَهُ وَسِرَّهُ

Between two Sajdahs:

اللَّهُمَّ اغْفِرْ لِي وَارْحَمْنِي وَعَافِنِي وَاهْدِنِي وَارْزُقْنِي

4. There are many duas one may recite after durood Ibraheem. A few of the famous ones are:

اللَّهُمَّ إِنِّي أَعُوذُ بِكَ مِنْ عَذَابِ جَهَنَّمَ، وَأَعُوذُ بِكَ مِنْ عَذَابِ الْقَبْرِ، وَأَعُوذُ بِكَ مِنْ فِتْنَةِ الْمَسِيحِ الدَّجَالِ، وَأَعُوذُ بِكَ مِنْ فِتْنَةِ الْمَحْيَا وَالْمَمَاتِ

اللَّهُمَّ إِنِّي أَسْأَلُكَ يَا اللَّهُ الْأَحَدَ الصَّمَدَ، الَّذِي لَمْ يَلِدْ وَلَمْ يُولَدْ، وَلَمْ يَكُنْ لَهُ كُفُوًا أَحَدٌ، أَنْ تَغْفِرَ لِي ذُنُوبِي، إِنَّكَ أَنْتَ الْغَفُورُ الرَّحِيمُ

اللَّهُمَّ إِنِّي ظَلَمْتُ نَفْسِي ظُلْمًا كَثِيرًا، وَلَا يَغْفِرُ الذُّنُوبَ إِلَّا أَنْتَ، فَاعْفِرْ لِي مَغْفِرَةً مِنْ عِنْدِكَ، وَارْحَمْنِي إِنَّكَ أَنْتَ الْغَفُورُ الرَّحِيمُ

5. Although Hajj wipes out many sins a person commits in his lifetime due to the sincerity and tawba made in the Hajj , it remains compulsory upon a person who has missed prayers to make up these prayers in his lifetime. As these prayers were missed out of negligence, it is important to compensate these prayers with qadha and only qadha prayers. Shaykh Mulla Ali Qari Rahimullah expresses upon this in his commentary of Sahih al-Bukhari, Umdah al-Qari under the following Hadith:

مَنْ نَسِيَ صَلَاةً فَلْيُصَلِّ إِذَا ذَكَرَهَا، لَا كَفَّارَةَ لَهَا إِلَّا ذَلِكَ

If anyone forgets a prayer, he should pray that prayer when he remembers it. There is no expiation except to pray the same.

6. The Hanafi Jurists are unanimous that it is impermissible and Haram to consume squids. Consuming prawns is a highly contested issue amongst the Ulama. Whilst some do claim it to be Halal, we advise to abstain from it due to the following Hadith:

الْحَلَالُ بَيْنُ، وَالْحَرَامُ بَيْنُ، وَبَيْنَهُمَا مُشَبَّهَاتٌ لَا يَعْلَمُهَا كَثِيرٌ مِنَ النَّاسِ، فَمَنْ اتَّقَى الْمُشَبَّهَاتِ اسْتَبْرَأَ لِدِينِهِ وَعَرْضِهِ، وَمَنْ وَقَعَ فِي الشُّبُهَاتِ: كَرَاعٍ يَزَعَى حَوْلَ الْجَمَى، يُوشِكُ أَنْ يُوَاقِعَهُ، أَلَا وَإِنَّ لِكُلِّ مَلِكٍ حِمَى، أَلَا إِنَّ حِمَى اللَّهِ فِي أَرْضِهِ مَحَارِمُهُ، أَلَا وَإِنَّ فِي الْجَسَدِ مُضْغَةً: إِذَا صَلَحَتْ صَلَحَ الْجَسَدُ كُلُّهُ، وَإِذَا فَسَدَتْ فَسَدَ الْجَسَدُ كُلُّهُ، أَلَا وَهِيَ الْقَلْبُ

‘Both halal and haram things are evident but in between them there are doubtful (suspicious) things and most of the people have no knowledge about them. So whoever saves himself from these suspicious things saves his religion and his honor. And whoever indulges in these suspicious things is like a shepherd who grazes (his animals) near the Hima (private pasture) of someone else and at any moment he is liable to get in it. (O people!) Beware! Every king has a Hima and the Hima of Allah on the earth is His illegal (forbidden) things. Beware! There is a piece of flesh in the body if it becomes good (reformed) the whole body becomes good but if it gets spoilt, the whole body gets spoilt and that is the heart.

7. The minimum length one must recite after Fatiha is one long ayah consisting of thirty letters at the least or three short ayahs. Accordingly, if one recites the Ayah al-Kursi or the first ten verses of Surah Baqarah after reciting Surah Fatiha, his Salah will be valid.

ذكر في العلانية: (وَلَيْسَ بَيْنَهُمَا ذِكْرٌ مَشْنُونٌ، وَكَذَا) لَيْسَ (بَعْدَ رَفْعِهِ مِنَ الرُّكُوعِ) دُعَاءٌ، وَكَذَا لَا يَأْتِي فِي رُكُوعِهِ وَسُجُودِهِ بِغَيْرِ التَّسْبِيحِ (عَلَى الْمَذْهَبِ) وَمَا وَرَدَ مَحْمُولٌ عَلَى الثَّقَلِ
[رد المحتار، ج ١، ص ٥٠٥، سعيد]

[فتاوى محمودية، باب صفة الصلاة، ج ٥، ص ٢١٦، فاروقية]

صحيح مسلم (1/ 843)

حَدَّثَنَا سَعِيدُ بْنُ مَنْصُورٍ، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَزُهَيْرُ بْنُ حَرْبٍ، قَالُوا حَدَّثَنَا سَفْيَانُ بْنُ عُيَيْنَةَ، أَخْبَرَنَا سَلِيمَانُ بْنُ سَحْبٍ، عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ اللَّهِ بْنِ مَعْبُدٍ، عَنْ أَبِيهِ، عَنْ ابْنِ عَبَّاسٍ، قَالَ: كَشَفَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الشَّارَةَ وَالنَّاسُ صُوفٌ خَلَفَ أَبِي بَكْرٍ، فَقَالَ: «أَيُّهَا النَّاسُ، إِنَّهُ لَمْ يَنْقُ مِنْ مُبَشِّرَاتِ النَّبِيِّ إِلَّا الرُّؤْيَا الصَّالِحَةُ، يَرَاهَا الْمُسْلِمُ، أَوْ تَرَى لَهُ، أَلَا وَإِنِّي نَبِيٌّ أَنْ أَقْرَأَ الْقُرْآنَ رَاكِعًا أَوْ سَاجِدًا، فَأَمَّا الرُّكُوعُ فَتَعْطَمُوا فِيهِ الرَّبُّ عَزَّ وَجَلَّ، وَأَمَّا السُّجُودُ فَاجْتَنِدُوا فِي الدُّعَاءِ، فَقِمِينَ أَنْ يُسْتَجَابَ لَكُمْ».

الأذكار للنووي ط ابن حزم (ص: 821)

وروي في "صحيح مسلم" [رقم: 284]، عن أبي هريرة رضي الله عنه، أن رسول الله -صلى الله عليه وسلم- قال: "أَقْرَبُ مَا يَكُونُ الْعَبْدُ مِنْ رَبِّهِ وَهُوَ سَاجِدٌ، فَأَكْثِرُوا الدُّعَاءَ". [وسيد برقم: 533]

الأذكار للنووي ط ابن حزم (ص: 121)

وثبت في "الصحيحين" [البخاري، رقم: 497؛ ومسلم، رقم: 484]، عن عائشة رضي الله عنها، أن رسول الله صلى الله عليه وسلم كان يقول في ركوعه وسجوده: "سُبْحَانَكَ اللَّهُمَّ رَبَّنَا وَبِحَمْدِكَ، اللَّهُمَّ اغْفِرْ لِي". يتأول القرآن. [راجع "رياض الصالحين" رقم: 411 حيث قال: معنى "يتأول القرآن" أي: يعمل ما أمر به في القرآن في قوله تعالى: (فَسَبِّحْ بِحَمْدِ رَبِّكَ وَاسْتَغْفِرْهُ) "سورة النصر: 3". وسيد برقم: 123]

الأذكار للنووي ط ابن حزم (ص: 121)

وثبت في "صحيح مسلم" [رقم: 177] عن علي رضي الله عنه - أن النبي - صلى الله عليه وسلم - كان إذا ركع يقول: "اللَّهُمَّ لَكَ رَكَعْتُ، وَبِكَ أَمْنْتُ، وَلَكَ أَسْلَمْتُ؛ خضع لك سَمْعِي وَبَصَرِي وَمُعْطِي وَعَظْمِي وَعَصِي"

الأذكار للنووي ط ابن حزم (ص: 121)

وجاء في كتب "السنن" [أبو داود، رقم: 067؛ الترمذي، رقم: 1243؛ النسائي، رقم: 0501]: "حَسَّعَ سَمْعِي وَبَصَرِي وَمُعْطِي وَعَظْمِي، وَمَا اسْتَقَلْتُ بِهِ قَدَمِي لِلَّهِ رَبِّ الْعَالَمِينَ".

الأذكار للنووي ط ابن حزم (ص: 121)

وثبت في "صحيح مسلم" [رقم: 784]، عن عائشة رضي الله عنها، أن رسول الله - صلى الله عليه وسلم - كان يقول في ركوعه وسجوده: "سُبُّوحٌ قُدُّوسٌ، رَبُّ الْمَلَائِكَةِ وَالرُّوحِ".

الأذكار للنووي ط ابن حزم (ص: 221)

وروي عن عوف بن مالك رضي الله عنه، قال: قمْتُ مع رسول الله - صلى الله عليه وسلم - لَيْلَةً، فقام، فقرأ سورة البقرة، لا يَمُزُّ بآية رحمة إلا وقف وسأل، ولا يَمُزُّ بآية عذاب إلا وقف وتعوذ قال: ثم ركع بقدر قيامه، يقول في ركوعه: "سُبْحَانَ ذِي الْجَبُوتِ وَالْمَلَائِكَةِ وَالْكَرِيَاءِ وَالْعِظَمَةِ" ثم قال في سجوده مثل ذلك. هذا حديث صحيح رواه أبو داود [رقم: 378]، والسنن [رقم: 9401] في "سننهما"، والترمذي في كتاب "الشمائل" [رقم: 172] بأسانيد صحيحة [وراجع رقم: 423 التالي]

الأذكار للنووي ط ابن حزم (ص: 421)

فإذا استوى قائماً، قال: رَبَّنَا لَكَ الْحَمْدُ، حَمْدًا كَثِيرًا طَيِّبًا مُبَارَكًا فِيهِ، مِلءَ السَّمَوَاتِ وَمِلءَ الْأَرْضِ، وَمِلءَ مَا بَيْنَهُمَا، وَمِلءَ مَا شئت من شيء بعد أهل الثناء والمجد، أحق ما قال العبد، وكلنا لك عبد. لا مانع لما أعطيت، ولا مُعْطِي لِمَا مَنَعْتُ، ولا ينفع ذا الجِند منك الجِد

الأذكار للنووي ط ابن حزم (ص: 421)

وروي في "صحيح مسلم" [رقم: 674]، عن علي وابن أبي أوفى رضي الله عنهما: أن رسول الله صلى الله عليه وسلم كان إذا رفع رأسه قال: "سَمِعَ اللَّهُ لِمَنْ حَمِدَهُ، رَبَّنَا لك الحمد، ملء السموات وملء الأرض وملء ما شئت من شيء بعد"

الأذكار للنووي ط ابن حزم (ص: 421)

وروي في "صحيح مسلم" [رقم: 774]، عن أبي سعيد الخدري رضي الله عنه: أن رسول الله صلى الله عليه وسلم كان إذا رفع رأسه من الركوع قال: "اللَّهُمَّ رَبَّنَا لَكَ الْحَمْدُ، مِلءَ السَّمَوَاتِ وَالْأَرْضِ، وَمِلءَ مَا شئت من شيء بعد، أَهْلُ الثَّنَاءِ وَالْمَجْدِ، أَحَقُّ مَا قَال الْعَبْدُ، وَلَكِنَّا لَكَ عَبْدُكَ اللَّهُمَّ لا مانع لِمَا أَعْطَيْتَ، ولا معطي لِمَا مَنَعْتَ، وَلَا يَنْفَعُ ذَا الْجَدِّ مِنْكَ الْجَدُّ"

الأذكار للنووي ط ابن حزم (ص: 421)

وروي في "صحيح مسلم" [رقم: 874] أيضاً، من رواية ابن عباس رضي الله عنهما: "ربنا لك الحمد ملء السموات وملء الأرض وما بينهما، وملء ما شئت من شيء بعد".

الأذكار للنووي ط ابن حزم (ص: 521)

وروي في "صحيح البخاري" [رقم: 977]، عن رفاع بن رافع الزرقني رضي الله عنه، قال: كنا يوماً نصلي وراء النبي صلى الله عليه وسلم، فلما رفع رأسه من الركعة، قال: "سَمِعَ اللَّهُ لِمَنْ حَمِدَهُ"، فقال رجل وراءه: رَبَّنَا وَلَكَ الْحَمْدُ، حَمْدًا كَثِيرًا طَيِّبًا مُبَارَكًا فِيهِ، فلما انصرف، قال: "مَنْ الْمُتَكَلِّمُ؟" قال: أنا، قال: "رَأَيْتُ بَضْعَةَ وَثَلَاثِينَ مَلَكًا يَنْتَفِعُونَ مِنْهَا، إِنَّهُمْ يَكْتُمُهَا أَوَّلَ"

الأذكار للنووي ط ابن حزم (ص: 621)

وروي في "صحيح البخاري" [رقم: 497] ومسلم [رقم: 484]، عن عائشة رضي الله عنها قالت: كان النبي - صلى الله عليه وسلم - يَكْثُرُ أن يقول في ركوعه وسجوده: "سُبْحَانَكَ اللَّهُمَّ رَبَّنَا وَيَحْمَدُكَ، اللَّهُمَّ اغْفِرْ لِي". [راجع "رياض الصالحين" رقم: 411؛ ومربقم: 892]

الأذكار للنووي ط ابن حزم (ص: 621)

وروي في "صحيح مسلم" [رقم: 784]، عن عائشة رضي الله عنها، ما قدمناه في الركوع [رقم: 103] أن رسول الله - صلى الله عليه وسلم - كان يقول في ركوعه وسجوده: "سُبُّوحٌ قُدُّوسٌ، رَبُّ الْمَلَائِكَةِ وَالرُّوحِ"

الأذكار للنووي ط ابن حزم (ص: 621)

وروي في "صحيح مسلم" [رقم: 177] أيضاً، عن علي رضي الله عنه، أن رسول الله - صلى الله عليه وسلم - كان إذا سجد قال: "اللَّهُمَّ لَكَ سَجْدَةٌ، وَبِكَ أَمْنْتُ، وَلَكَ أَسْلَمْتُ، سَجْدَ وَجْهِي لِلَّذِي خَلَقَهُ وَضَوَّرَهُ، وَشَقَى سَمْعَهُ وَبَصَرَهُ، تَبَارَكَ اللَّهُ أَحْسَنُ الْخَالِقِينَ"

الأذكار للنووي ط ابن حزم (ص: 721)

أن رسول الله - صلى الله عليه وسلم - ركع ركوعه الطويل يقول فيه: "سُبْحَانَ ذِي الْجَبُوتِ وَالْمَلَائِكَةِ وَالْكَرِيَاءِ وَالْعِظَمَةِ" ثم قال في سجوده مثل ذلك.

الأذكار للنووي ط ابن حزم (ص: 721)

وروي في "صحيح مسلم" [رقم: 584]، عن عائشة رضي الله عنها، قالت: افتقدت النبي - صلى الله عليه وسلم - ذات ليلة، فتحسست، فإذا هو راجع، أو ساجد، يقول: "سُبْحَانَكَ وَيَحْمَدُكَ، لا إِلَهَ إِلَّا أَنْتَ"

الأذكار للنووي ط ابن حزم (ص: 721)

وفي رواية في مسلم [رقم: 684]؛ فوقع يدي على بطن قدميه وهو في المسجد، وهما منصوبتان، وهو يقول: "اللَّهُمَّ اغْفِرْ لِي سَخَطَكَ، وَعِصْيَانَكَ عَنْ غُلُوْبَتَيْكَ، وَاعْتَدُو بِكَ مِنْكَ لَأَحْصِي ثَنَاءَ عَلَيْكَ أَنْتَ كَمَا أَثْنَيْتَ عَلَى نَفْسِكَ".

الأذكار للنووي ط ابن حزم (ص: 821)

وروي في "صحيح مسلم" [رقم: 344]، عن أبي هريرة - رضي الله عنه - أيضاً، أن رسول الله - صلى الله عليه وسلم - كان يقول في سجوده: "اللَّهُمَّ اغْفِرْ لِي ذُنُوبِي كُلَّهُ، دِقَّةً وَجَلَةً، وَأَوَّلَهُ وَآخِرَهُ، وَعَلَانِيَتَهُ وَسِرَّهُ"

الدر المختار وحاشية ابن عابدين (رد المحتار) (1/ 605)

وَيَنْبِئُ السَّجْدَتَيْنِ «اللَّهُمَّ اغْفِرْ لِي وَارْحَمْنِي وَعَافِنِي وَاهْدِنِي وَارْزُقْنِي» زَوَاهُ أَبُو دَاوُدَ، وَحَسَنَةُ النَّوَوِيِّ وَضَحَّهَ الْحَاكِمُ، كَذَا فِي الْجَلِيدِ

صحيح مسلم (1/ 314)

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، عَنْ مَالِكِ بْنِ أَنَسٍ، فِيمَا قُرِئَ عَلَيْهِ عَنْ أَبِي الرَّبِيعِ، عَنْ طَاوُسٍ، عَنْ ابْنِ عَبَّاسٍ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يَتْلُو هَذَا الدُّعَاءَ كَمَا يُتْلَعُ السُّورَةُ مِنَ الْقُرْآنِ يَقُولُ قَوْلًا: «اللَّهُمَّ إِنَّا نَعُوذُ بِكَ مِنْ عَذَابِ جَهَنَّمَ، وَأَعُوذُ بِكَ مِنْ عَذَابِ الْقَبْرِ، وَأَعُوذُ بِكَ مِنْ فِتْنَةِ الْمَسِيحِ الدَّجَالِ، وَأَعُوذُ بِكَ مِنْ فِتْنَةِ الصُّخْيَا وَالْمَمَاتِ»

سنن أبي داود (1/ 952)

حَدَّثَنَا عَبْدُ اللَّهِ بْنُ عُمَرَ أَبُو مَعْمَرٍ، حَدَّثَنَا عَبْدُ الْوَارِثِ، حَدَّثَنَا الْحُسَيْنُ الْمَعْلَمُ، عَنْ عَبْدِ اللَّهِ بْنِ بُرَيْدَةَ، عَنْ حُظَيْلَةَ بْنِ عَلِيٍّ، أَنَّ مِخَجَنَ بْنَ الْأَذْرَجِ، حَدَّثَهُ قَالَ: دَخَلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْمَسْجِدَ، فَإِذَا هُوَ بِرَجُلٍ قَدْ قَتَلَ صِلَاتَهُ، وَهُوَ يَتَشَهُدُ وَهُوَ يَقُولُ: «اللَّهُمَّ إِنِّي أَسْأَلُكَ يَا اللَّهُ الْأَحَدَ الصَّمَدَ الَّذِي لَمْ يَلِدْ وَلَمْ يُولَدْ، وَلَمْ يَكُنْ لَهُ كُفُوًا أَحَدٌ، أَنْ تَغْفِرَ لِي ذُنُوبِي، إِنَّكَ أَنْتَ الْغَفُورُ الرَّحِيمُ»، قَالَ: فَقَالَ: «قَدْ غَفِرَ لَكَ، قَدْ غَفِرَ لَكَ» ثَلَاثًا

صحيح البخاري (1/ 661)

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، قَالَ: حَدَّثَنَا اللَّيْثُ، عَنْ زَيْدِ بْنِ أَبِي حَبِيبٍ، عَنْ أَبِي الْخَيْرِ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، عَنْ أَبِي بَكْرِ الصَّدِيقِ رَضِيَ اللَّهُ عَنْهُ: أَنَّهُ قَالَ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: عَلَّمَنِي دُعَاءَ أَدْعُو بِهِ فِي صَلَاتِي، قَالَ: «قُلْ: اللَّهُمَّ إِنِّي ظَلَمْتُ نَفْسِي ظُلْمًا كَثِيرًا، وَلَا يَغْفِرُ الذُّنُوبَ إِلَّا أَنْتَ، فَاغْفِرْ لِي مَغْفِرَةً مِنْ عِنْدِكَ، وَارْحَمْنِي إِنَّكَ أَنْتَ الْغَفُورُ الرَّحِيمُ»

قَوْلُهُ رَجَعَ كَيْفَ وَلَدَنَهُ أُمُّهُ أَيْ يَغْفِرُ ذَنْبَ وَظَاهِرُهُ غُفْرَانُ الصَّغِيرِ وَالْكَبِيرِ وَالتَّيْبَاتِ وَهُوَ مِنْ أَقْوَى الشَّوَاهِدِ لِخَبَرِ الْعَبَّاسِ بْنِ مَرْذَاسٍ الْمُصَرِّحِ بِذَلِكَ وَلَهُ شَاهِدٌ مِنْ حَدِيثِ بْنِ عُمَرَ فِي تَفْسِيرِ الطَّبْرِيِّ

[فتح الباري، كتاب الحج، باب الحج المجبور و باب المحصر، ج ٤١، ص ٥٢١٣٤، دار الحديث]

[وكذا في عمدة القاري، ج ٧، ص ٧٥٤، المكتبة التوفيقية]

اعلم أن القضاء وجب بالسبب الذي وجب به الأداء فكل من الأداء والقضاء تسليم عين الواجب إلا أن الأداء تسليم عين الواجب في وقته والقضاء تسليم عين الواجب بعد خروج الوقت وهذا هو الراجح وقيل يجب القضاء بسبب جديد وإن المؤدى مثل الواجب وليس لهذا الخلاف فمرة إذا علمت هذا تعلم أن قوله يمثل ما عنده جرى على غير الراجح والتأخير بلا عذر كبيرة لا تزول بالقضاء بل بالتوبة أو الحج فالقضاء مزيل لإثم الترك لا لإثم التأخير والإعادة فعل مثله في وقته لخلل غير الفساد لقولهم كل صلاة أدبت مع كراهة التحرير تعاد أي وجوباً في الوقت وأما بعده فندبا وقوله إسقاط الواجب يفيد أن السنة لا توصف بالقضاء وإذا أريد ما هو أهم أبدلنا الواجب بالعبادة فيقال الأداء فعل العبادة في وقتها والإعادة فعل مثلها لخلل غير الفساد وغير عدم صحة الشروع والقضاء فعلها بعد وقتها فتكون السنة التي تفعل في وقتها إداء

[حاشية الطحاوي على مراقي الفلاح، باب فضا الفوائت ج ١، ص ٣٣، دار قبا]

صحيح البخاري (1/ 221)

حَدَّثَنَا أَبُو نَعِيمٍ، وَمُوسَى بْنُ إِسْمَاعِيلَ، قَالَا: حَدَّثَنَا هَمَّامٌ، عَنْ قَتَادَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ [ص: 321] قَالَ: " مَنْ نَسِيَ صَلَاةً فَلْيَصِلْ إِذَا ذَكَرَهَا، لَا كُفَّارَةَ لَهَا إِلَّا ذَلِكَ [وَإِقَامِ الصَّلَاةِ لِذِكْرِي] (طه: 41) "، قَالَ مُوسَى: قَالَ هَمَّامٌ: سَمِعْتُهُ يَقُولُ: بَعْدُ: «وَإِقَامِ الصَّلَاةَ لِلذِّكْرِ»، قَالَ أَبُو عَبْدِ اللَّهِ: وَقَالَ حَبَّانٌ: حَدَّثَنَا هَمَّامٌ، حَدَّثَنَا قَتَادَةُ، حَدَّثَنَا أَنَسُ بْنُ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَحْوُهُ

عمدة القاري شرح صحيح البخاري (5/ 49)

وَأَيْضًا لِقَوْلِهِمَا أَنِ فِي هَذَا الْفِعْلِ كُفَّارَةٌ، بَيْنَ لَهُمْ أَنْ لَا كُفَّارَةَ فِيهَا، وَإِنَّمَا يَجِبُ الْقَضَاءُ فَقَطْ مِنْ غَيْرِ شَيْءٍ آخَرَ...-الثالث: فِيهِ ذِكْرُ أَيْضًا أَنَّ الصَّلَاةَ لَا تَجِبُ بِالنَّاسِ كَمَا يَجِبُ الصَّوْمُ وَغَيْرُهُ، أَلَيْسَ إِلَّا إِذَا كَانَتْ عَلَيْهِ صَلَوَاتُ قَائِمَتِهِ فَحُضِرَ الْمَوْتُ فَامُوسَى بِالْفِدْيَةِ عَنْهَا، فَإِنَّهُ يَجُوزُ كَمَا بَيْنَ فِي (الرُّوْع)

(وَلَا يَجِلُّ حَيَوَانٌ إِلَّا السَّمَكُ)

[رد المحتار ج ٦ ص ٦٠٣ ايج ايم سعيد]

فَالْحَيَوَانُ فِي الْأَصْلِ نَوَاعَانُ: نَوْعٌ يَعِيشُ فِي الْبَحْرِ، وَنَوْعٌ يَعِيشُ فِي الْبَرِّ أَمَّا الَّذِي يَعِيشُ فِي الْبَحْرِ فَجَمِيعٌ مَا فِي الْبَحْرِ مِنَ الْحَيَوَانِ مُحَرَّمٌ الْأَكْلُ إِلَّا السَّمَكُ خَاصَّةً فَإِنَّهُ يَجِلُّ أَكْلُهُ لَا مَا طَقَّ مِنْهُ وَهَذَا قَوْلُ أَصْحَابِنَا - رَضِيَ اللَّهُ عَنْهُمْ [إبدائع الصنائع ج ٦ ص ٣٧١ دار الكتب العلمية]

حَدَّثَنَا أَبُو نَعِيمٍ، حَدَّثَنَا زُكْرِيَّا، عَنْ عَامِرٍ، قَالَ: سَمِعْتُ النُّعْمَانَ بْنَ بَشِيرٍ، يَقُولُ: سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: " الْحَلَالُ بَيْنَ، وَالْحَرَامُ بَيْنَ، وَبَيْنَهُمَا مُشَبَّهَاتٌ لَا يَعْلَمُهَا كَثِيرٌ مِنَ النَّاسِ، فَمَنْ اتَّقَى الْمُشَبَّهَاتِ اسْتَبْرَأَ لِدِينِهِ وَعَرْضِهِ، وَمَنْ وَقَعَ فِي الشُّبُهَاتِ: كَرَّاعَ رِجَالٍ حَوْلَ حِمَى، يُوشِكُ أَنْ يُوَاقِعَهُ، أَوْ وَإِذَا لِكُلِّ مَلِكٍ جَمِيٌّ، أَلَا إِنَّ جَمِيَّ الْمَالِ فِي أَرْضِهِ مَخَارِمُهُ، أَلَا وَإِنَّ فِي الْجَسَدِ مُضْغَةً، إِذَا صَلَحَتْ صَلَحَ الْجَسَدُ كُلُّهُ، وَإِذَا فَسَدَتْ فَسَدَ الْجَسَدُ كُلُّهُ، أَلَا وَهِيَ الْقَلْبُ

[صحيح البخاري، كتاب الايمان، باب فضل من استبرأ لدينيه، ج ١، ص ٠٢، دار طوق النجاة]

(قَوْلُهُ تَعْدِيلٌ ثَلَاثًا فَيَضَارُّ) أَيْ مِثْلُ - (لَمْ تَنْظُرْ) - وَهِيَ ثَلَاثُونَ حَرْفًا، فَلَوْ قُرَأَ آيَةٌ طَوِيلَةٌ قُدِّرَ ثَلَاثِينَ حَرْفًا يَكُونُ قَدْ أَتَى بِقَدْرِ ثَلَاثِ آيَاتٍ

[رد المحتار، ج ١، ص ٩٥٤، سعيد]

IBADAH DURING THE MONTH OF SAFAR

Q: Is there any special thing linked with the month of SAFAR after the month of Muharam. As it is beleived that month of SAFAR is a hard month. And there is a hadith associated about this month that means somehow like...who ever gives the news of the end of SAFAR month, will be rewarded. As in this month hardships come and Messengers of Allah suffered hardships in this month. So there are special NAWAFIL to perform in this month, and for ever month as well. there are some special NAWAFIL of 4 RAKAT with some particular surrah has to be recited about 50 or 100 time. Is it varified in Sunnah or not. Some group of people strictly follow it and other strictly oppose it. let us know about the truth according to Hanafi School of fiqh.

Another Question is that Haaji's Duas are accepted after 40 days of his hajj. Is it true? I read a hadith explained by HAZART UMAR in FAZAIL-e-AAmal, that till 10th of RABI UL AWAL, hajji's duas are accepted for forgivness for himself and for others. Is it sahih hadith?

A: Mufti Taqi Uthmani (may Allah bless him) states in his book "Islamic Months" regarding the month of Safar: "...no specific mode of worship or other special rules are set by the Shari'ah to observe this month.

Some people believe that this month is an unlucky month, therefore, they avoid to hold marriage ceremonies or any other happy gatherings in this month. This belief is totally baseless and it is a part of the superstitions rampant in the ignorant of Arabia before the advent of Islam.

The Holy Prophet (sallallahu alaihi wa sallam) eradicated all such superstitious beliefs. Specifically in the case of the month of Safar, he expressly said,

لا صفر

(To hold) the month of Safar (as unlucky) is nothing.

Therefore, Muslims should not give ear to such superstitions. There is no problem in holding marriages, etc. in this month.

In conclusion, there is no basis for considering the month of Safar to be “the month of suffering”, nor are there any special nawafil to pray during this month. The door to pray nawafil is always opened for those who seek the closeness of Allah Ta’ālā. The Holy Prophet (sallallahu alaihi wa sallam) relates in a hadith that Allah the Almighty says:

مَا تَقَرَّبَ إِلَيَّ عَبْدِي بِشَيْءٍ أَحَبَّ إِلَيَّ مِمَّا افْتَرَضْتُ عَلَيْهِ، وَمَا يَزَالُ عَبْدِي يَتَقَرَّبُ إِلَيَّ بِالنَّوَافِلِ حَتَّى أُحِبَّهُ فَإِذَا أَحْبَبْتُهُ: كُنْتُ سَمْعَهُ الَّذِي يَسْمَعُ بِهِ، وَبَصَرَهُ الَّذِي يُبْصِرُ بِهِ، وَيَدَهُ الَّتِي يَبْطِشُ بِهَا، وَرِجْلَهُ الَّتِي يَمْشِي بِهَا، وَإِنْ سَأَلَنِي لَأُعْطِيَنَّهُ، وَلَئِنْ اسْتَعَاذَنِي لَأُعِيذَنَّهُ

And the most beloved things with which My slave comes nearer to Me, is what I have enjoined upon him; and My slave keeps on coming closer to Me through performing Nawafil (praying or doing extra deeds besides what is obligatory) till I love him, so I become his sense of hearing with which he hears, and his sense of sight with which he sees, and his hand with which he grips, and his leg with which he walks; and if he asks Me, I will give him, and if he asks My protection (Refuge), I will protect him... [Sahih al-Bukhari, 6502, Chapter regarding humility or modesty or lowliness]

The hadith you refer to regarding the duas of the Hajis being accepted after hajj is as follows:

عَنْ مُجَاهِدٍ، قَالَ: قَالَ عُمَرُ: «يُغْفَرُ لِلْحَاجِّ وَلِمَنْ اسْتَعْفَرَ لَهُ الْحَاجُّ بَقِيَّةَ ذِي الْحِجَّةِ وَالْمَحَرَّمِ وَصَفَرٍ وَعَشْرِ مِنْ شَهْرِ رَبِيعِ الْأَوَّلِ»

Mujahid (may Allah have mercy on him) narrates from ‘Umar (may Allah be pleased with him) that he said: A Haji and those he makes du’a for are given pardon (from Allah) for the remainder of the month Dhul Hijjah, the month of Muharram, the month of Safar, and the first ten days of Rabi’ al-Awwal. [Musannaf ibn Abi Shaybah, 12657, The Book of Hajj: What has been said in regards to the reward of Hajj]

While we acknowledge that there are academic objections on the narrators (Raawi) and on the chain (Sanad) of the hadith, such discussions are for academic consumption for people specializing in hadith and are rendered in the footnotes for the benefit of such persons.

In brief, the objections on the hadith are satisfactorily overcome and the hadith in reference is regarded as reliable. A haji’s dua for forgiveness for others is accepted till the end of Dhul Hijjah, the whole of Muharram, the whole of Safr and ten or twenty days of Rabi’ al-Awwal. This expresses the high and lofty position of a haji in the right of Allah Ta’alā.

وقالت طائفة: بل المراد بصفر شهر ثم اختلفوا في تفسيره على قولين:

أحدهما: أن المراد نفي ما كان أهل الجاهلية يفعلونه في النسيء فكانوا يحلون المحرم ويحرمون صفر مكانه وهذا قول مالك.
والثاني: أن المراد أن أهل الجاهلية كانوا يستبشمون بصفر ويقولون: إنه شهر مشنوم فأبطل النبي صلى الله عليه وسلم ذلك وهذا حكاية أبو داود عن محمد بن راشد المكحولي عمن سمعه يقول ذلك ولعل هذا القول أشبه الأقوال وكثير من الجهال يتشاءم بصفر وربما ينهى عن السفر فيه والتشاؤم بصفر هو من جنس الطيرة المنهى عنها

(لطائف المعارف، ص ٨٤١، دار ابن كثير)

Sahih al-Bukhari, 5707, Chapter regarding Leporasy
Islamic Months by Mufti Taqi Uthmani, pg. 23, Idaratul Ma'arif

There are two main issues in regards to the isnad (chain of narration) of this hadith. Below we will attempt to outline these issues and shed light on the matter regarding this hadith.

(1) Inqita' (broken chain of narration): Imam Mujahid (may Allah have mercy on him) was born in the year 21 AH[1] and 'Umar (may Allah be pleased with him) passed away in the beginning of the year 23 AH[2]. This would mean that Imam Mujahid (may Allah have mercy on him) must have heard the hadith while he was only two years old. Therefore, Imam Mujahid (may Allah have mercy on him) must have heard this saying of 'Umar (may Allah be pleased with him) through another person and then narrated it further.

Due to this inqita' the isnad of this hadith will be affected but it does not mean that this hadith is completely unreliable.[3] Imam Mujahid (may Allah have mercy on him) was a great Tabi'i and Mufassir of the Quran. He was considered to be a very authentic narrator of hadith according to many muhaddithin[4] As such, his narration of this hadith still holds weight amongst the muhaddithin, especially if it is corroborated by ahadith of similar meaning as we will discuss below.

(2) This hadith contains a narrator in the sanad (chain) by the name of Laith ibn Abi Sulaim who is regarded to be weak amongst the majority of the muhaddithin.[5] Nevertheless, the great muhaddith and Imam of al-jarh wa ta'dil (the art of disparaging narrators), Imam Adh-Dhahabi, states in his book Siyar 'Aslam an-Nubala after narrating the views of the muhaddithin in regards to Laith:

بَعْضُ الْأَئِمَّةِ يُحَسِّنُ لِلَّيْثِ، وَلَا يَبْلُغُ حَدِيثُهُ مَرْتَبَةَ الْحَسَنِ، بَلْ عَدَّاهُ فِي مَرْتَبَةِ الضَّعِيفِ الْمُقَارَبِ، قَبْرُوى فِي الشَّوَاهِدِ وَالْإِغْتِبَارِ، وَفِي الرِّغَائِبِ، وَالْقَضَائِلِ، أَمَّا فِي الْوَاجِبَاتِ، فَلَا.

Some scholars consider Laith to be a good narrator[6] even though his ahadith do not reach the level of "Hasan". In actuality, he is regarded to be amongst the category of "ad-daef al-muqarab"; therefore, his narration may be used in 'shawahid', 'itibar' (to corroborate another hadith), 'raghaib' (ahadith encouraging good deeds), and 'fadail' (ahadith regarding virtues). As far as those ahadith that pertain to 'wajibat' (judicial rulings), his ahadith may not be used.[7]

It is clear from Imam Dhahabi's statement that even though Laith is a weak narrator, there is no harm in using a hadith narrated from him in regards to fadail (virtues).

Furthermore, there are other ahadith that support the meaning of this hadith.

a) Imam al-Bazzar narrates in his musnad on the authority Abu Hurayrah (may Allah be pleased with him) that the Holy Prophet (sallallahu alaihi wa sallam) said:

يَغْفَرُ لِلْحَاجِّ وَلِمَنْ اسْتَغْفَرَ لَهُ الْحَاجُّ

A Haji and those he makes du'a are given pardon (from Allah). [Musnad al-Bazzar, 9726, Chapter on the Musnad of Abu Hamzah Anas bin Malik]

This hadith contains a narrator by the name of Sharik bin Abdillah who is classified as weak by some muhaddithin.[8]

b) Imam al-Baihaqi narrates in his book Shu'abul al-Iman[9], Imam Abu Bakr ibn Abi Shaybah narrates in his Musannaf[10], and Imam Hakim narrates in his Mustadrak on the authority of Abu Hurairah (may Allah be pleased with him) that the Holy Prophet (sallallahu alaihi wa sallam) said:

اللَّهُمَّ اغْفِرْ لِلْحَاجِّ، وَلِمَنْ اسْتَغْفَرَ لَهُ الْحَاجُّ

O Allah, forgive the Hajis and (forgive) those who the Hajis make du'a for! [Mustakrak of Imam Hakim, 1612, The Book of Manasik]

This hadith also contains Sharik bin 'Abdillah who is classified as a weak narrator by muhaddithin.[11]

Although, this hadith has a shahid that provides support to this hadith. Imam Isma'il bin Muhammad at-Taymi narrates the same hadith in his book At-Tarqhib Wa At-Tarhib with a different narrator[12]

by the name of Shayban.[13] The narration in this book is mursal (i.e. a Tabi'i is narrating a hadith directly from the Holy Prophet (sallallahu alaihi wa sallam) without mentioning the name of a Sahabi

in the chain of narration), but the Tabi'i narrating this hadith is the famous Mufasssir and student of 'Abdullah bin 'Abbas (may Allah be pleased with him), Mujahid bin Jabr (may Allah have mercy on him). As stated before, his narrations still hold much weight in front of muhaddithin due to his great status and authenticity in narrations.[14]

After analyzing the isnad and details of this hadith, we can conclude that there are issues regarding the strength of this hadith in terms of the isnad. On the other hand, the hadith mentioned by Sheikh al-Hadith (may Allah have mercy on him) in Fazail-e-Hajj is a hadith regarding the virtue of one who performs hajj. The scholars of ahadith are less restricted when narrating ahadith in regards to fadhail (virtues)[15] especially when they are corroborated by other ahadith of the same meaning. Imam as-Suyuti mentions in his book Tadrīb ar-Rawī:

(وَيَجُوزُ عِنْدَ أَهْلِ الْحَدِيثِ وَغَيْرِهِمُ الشَّاهِدُ فِي الْأَسَانِيدِ الضَّعِيفَةُ (وَرَوَايَةُ مَا سَوَى الْمُؤْضَعِ مِنَ الضَّعِيفِ وَالْعَمَلُ بِهِ مِنْ غَيْرِ بَيَانِ ضَعْفِهِ فِي غَيْرِ صِفَاتِ اللَّهِ تَعَالَى) وَذَلِكَ كَالْقَصَصِ وَقِصَالِ الْأَعْمَالِ وَالْمَوَاعِظِ، وَغَيْرَهَا (مِمَّا لَا تَعَلُّقُ لَهُ بِالْعَقَائِدِ وَالْأَخْكَامِ).

According to the scholars of hadith and others, it is fine to have leniency in regards to chains of narration that are weak and to narrate those weak narrations that are not fabricated. And (it is also fine) to act upon it without indicating its weakness. And this is referring to (ahadith about) Qisas (narratives),

Fadhail al-'amal (virtues of actions), and Mawā'idh (advices and admonitions), etc. [Tadrīb ar-Rawī, The Twenty Second type of Hadith: Maqlub]

Based on the analysis above, we come to the following points:

- (1) The isnad of this hadith contains inqita' and therefore is inconsistent, but the inconsistency is coming from a renowned Tabi'in and great mufasssir Imam Mujahid (may Allah have mercy on him). As such, this inconsistency will not render the hadith as completely unreliable especially when this hadith is corroborated by other ahadith of the same meaning.
- (2) The narrator Laith bin Abi Sulaim is a weak narrator, but he is still classified as hasan by some. Furthermore, Imam Dhahabi clearly states that there is no harm in narrating ahadith from him in regards to virtues of good deeds. The hadith in reference is of this category.
- (3) The muhaddithin are more lenient in narrating ahadith of virtues. This not only substantiates point two, but it further clarifies as to why Sheikh Zakariyya (may Allah have mercy on him) narrated such a hadith. The book in question is named "The virtues of Hajj"; therefore, it was feasible to narrate a hadith regarding the virtue of a Hajj without having a need to delve into the intricacies regarding the authenticity of the hadith.

[1] أما مجاهد فقد ولد سنة ١٢ و توفي سنة ٣٠١ هجرية
(موسوعة الإسرائيليات و الموضوعات في كتب التفسير، ج ١، ص ٣٥، دار الغد الجديد)

[2] روى أبو بكر بن إسحاق بن محمد بن سعد، عَنْ أَبِيهِ، أَنَّهُ قَالَ: طَعَنَ عُمَرُ يَوْمَ الْأَرْبَعَاءِ لِأَرْبَعِ لَيَالٍ بَقِيَ مِنْ ذِي الْحِجَّةِ، سَنَةَ ثَلَاثٍ وَعَشْرِينَ، وَدَفَنَ يَوْمَ الْأَحَدِ صَبَاحَ هَالِ الْمَحْرَمِ سَنَةَ أَرْبَعٍ وَعَشْرِينَ، وَكَانَتْ خِلَافَتُهُ عَشْرَ سِنِينَ، وَخَمْسَةَ أَشْهُرٍ، وَأَحَدًا وَعَشْرِينَ يَوْمًا
(أسد الغابة، ج ٣، ص ٢٤٣)

[3] رأي ابن رجب في الاحتجاج بالمرسل:
بعد أن ذكر ابن رجب هذين المذهبين حاول التوفيق بينهما فقال: "وأعلم انه لا تنافي بين كلام الحفاظ وكلام الفقهاء في هذا الباب، فإن الحفاظ إنما يريدون صحة الحديث المعين إذا كان مرسلًا، وهو ليس بصحيح على طريقتهم، لانقطاعه وعدم اتصال إسناده.
وأما الفقهاء فمرادهم صحة ذلك المعنى الذي دل عليه الحديث فإذا عضد ذلك المرسل قرائن تدل على أنه له أصلاً قوي الظن بصحة ما دل عليه فاحتج به مع ما احتف به من القرائن.
قال ابن رجب: "وهذا هو التحقيق في الاحتجاج بالمرسل عند الأئمة، كالشافعي وأحمد وغيرهما مع أن في كلام الشافعي ما يقتضي صحة المرسل حينئذ".
(شرح علل الترمذي، ٨٨١، المكتبة الشاملة)

[4] وَقَالَ مُحَمَّدُ بْنُ عَبْدِ اللَّهِ الْأَنْصَارِيُّ (1) عَنْ أَبِي الْبَيْتِ الْفَضْلِ بْنِ مَيْمُونٍ: سَمِعْتُ مُجَاهِدًا يَقُولُ: عَرَضَ الْقُرْآنُ عَلَى ابْنِ عَبَّاسٍ ثَلَاثِينَ مَرَّةً.
وَقَالَ عَبْدُ السَّلَامِ بْنُ حَرْبٍ (2)، عَنْ خُصَيْفٍ: كَانَ أَعْلَمُهُمْ بِالتَّأْسِيرِ مُجَاهِدٌ، وَبِالْحَجِّ عَطَاءٌ.

وَقَالَ أَبُو نَعِيمٍ (3) : قَالَ يَحْيَى الْقَطَّانُ: مُرْسَلَاتُ مُجَاهِدٍ أَحَبُّ إِلَيَّ مِنْ مُرْسَلَاتِ عَطَاءٍ بِكَثِيرٍ.
وَقَالَ إِسْحَاقُ بْنُ مَنْصُورٍ (4) عَنْ يَحْيَى بْنِ مَعِينٍ، وَأَبُو زُرْعَةَ (5) : ثَقَّةٌ.
وَقَالَ أَبُو عُبَيْدٍ الْأَجْرِيُّ (6) : قُلْتُ لِأَبِي دَاوُدَ: مَراسيلُ عَطَاءٍ أَحَبُّ إِلَيْكَ (7) أَوْ مَراسيلُ مُجَاهِدٍ؟ قَالَ: مَراسيلُ مُجَاهِدٍ، عَطَاءٌ كَانَ يَحْمِلُ عَنْ كُلِّ ضَرْبٍ.
وَقَالَ سَفْيَانُ الثَّوْرِيُّ (8) عَنْ سَلَمَةَ بْنِ كَهِيلٍ: مَا رَأَيْتُ أَحَدًا أَرَادَ بِهَذَا الْعِلْمِ وَجْهَ اللَّهِ إِلَّا عَطَاءً، وَطَاوُوسَ، وَمُجَاهِدًا.
(تهذيب الكمال في أسماء الرجال، ٢٨٧٥، مجاهد بن جبر)

[5] [قال الشيخ محمد عوامة في تعليقه علي المصنف لابن أبي شيبة] و ليث: هق ابن ابي سليم، و هو ضعيف الحديث (المصنف لابن ابي شيبة مع تحقيق الشيخ محمد عوامة، ١٠٠٨٢١، ج ٨، ص ٩٢، دار قرطبة):

قَالَ أَحْمَدُ بْنُ حَنْبَلٍ: لَيْثٌ بَنُ أَبِي سُلَيْمٍ مُضْطَرِبُ الْحَدِيثِ، وَلَكِنْ حَدَّثَ عَنْهُ النَّاسُ.
وَقَالَ: مَا رَأَيْتُ يَحْيَى بْنَ سَعِيدٍ أَسْوَأَ رَأْيًا فِي أَحَدٍ، مِنْهُ فِي لَيْثٍ، وَإِنْ إِسْحَاقَ، وَهَمَّامَ، لَا يَسْتَطِيعُ أَحَدٌ أَنْ يَرُاجِعَهُ فِيهِمْ.
قَالَ عَبْدُ اللَّهِ: قَالَ لِي يَحْيَى بْنُ مَعِينٍ: لَيْثٌ أَوْعَفُ مِنْ يَزِيدَ بْنِ أَبِي زَيْنَادٍ، يَزِيدٌ قَوَّفُهُ فِي الْحَدِيثِ.
وَرَوَى: مُعَاوِيَةُ بْنُ صَالِحٍ بَنَ يَحْيَى، قَالَ: لَيْثٌ ضَعِيفٌ، إِلَّا أَنَّهُ يَكْتُمُ حَدِيثَهُ.
وَقَالَ الْفَلَاحِيُّ، وَغَيْرُهُ: كَانَ يَحْيَى الْقَطَّانُ لَا يُحَدِّثُ عَنْ لَيْثٍ، وَلَا حُجَّاجَ بْنِ أَرْطَاةَ، وَكَانَ عَبْدُ الرَّحْمَنِ يُحَدِّثُ عَنْ سَفْيَانَ وَغَيْرِهِ، عَنْهُمَا.
وَقَالَ ابْنُ الْمَدِينَةِ، وَغَيْرُهُ: سَمِعْتُ يَحْيَى يَقُولُ: مُجَاهِدٌ أَحَبُّ إِلَيَّ مِنْ لَيْثٍ وَحُجَّاجٍ.
يَحْيَى بْنُ سُلَيْمَانَ: عَنْ ابْنِ إِدْرِيسَ، قَالَ:
مَا جَلَسْتُ إِلَى لَيْثٍ بَنِ أَبِي سُلَيْمٍ، إِلَّا سَمِعْتُ مِنْهُ مَا لَمْ أَسْمَعْ مِنْهُ.
قَالَ عَبْدُ الْمَلِكِ أَبُو الْحَسَنِ الْمِمْقُوتِيُّ: سَمِعْتُ يَحْيَى ذَكَرَ لَيْثَ بْنَ أَبِي سُلَيْمٍ، فَقَالَ:
ضَعِيفُ الْحَدِيثِ عَنْ طَاوُوسٍ، فَإِذَا جَمَعَ طَاوُوسٌ وَغَيْرُهُ، فَالزَّيَادَةُ هُوَ ضَعِيفٌ.
(سير أعلام النبلاء للذهبي، ٤٨-٤٩، لَيْثٌ بَنُ أَبِي سُلَيْمٍ بَنَ زَيْنَبِ الْأُمَوِيِّ مَوْلَاهُمْ):

وَقَوْلُهُ فِي الصَّلَاةِ: وَيُذَكَّرُ عَنْ أَبِي هُرَيْرَةَ رَفَعَهُ، «لَا يَتَلَوُّعُ الْإِمَامُ فِي مَكَانِهِ»، وَقَالَ عَقِيْبُهُ: وَلَمْ يَصِحْ، وَهَذِهِ عَادَتُهُ فِي ضَعِيفٍ لَا عَاجِذَ لَهُ مِنْ مُوَافَقَةِ إِجْمَاعٍ أَوْ نَحْوِهِ، عَلَى أَنَّهُ فِيهِ قِلِيلٌ جَدًّا، وَالْحَدِيثُ أَخْرَجَهُ أَبُو دَاوُدَ مِنْ طَرِيقِ اللَّيْثِ بْنِ أَبِي سُلَيْمٍ عَنِ الْحُجَّاجِ بْنِ عُثَيْبٍ عَنْ إِبْرَاهِيمَ بْنِ إِسْمَاعِيلَ عَنْ أَبِي هُرَيْرَةَ، وَلَيْثٌ ضَعِيفٌ (تدريب الراوي للسيوطي، ج ١، ص ٢٠٦، دار طيبة):

قَالَ الشُّيْخُ: وَقَدْ أَخْبَرَنَا أَبُو عَبْدِ اللَّهِ الْعَافِظُ، ثنا أَبُو الْوَلِيدِ الْقَافِي، ثنا الْحَسَنُ بْنُ سَفْيَانَ، ثنا أَبُو بَكْرٍ بْنُ أَبِي شَيْبَةَ، ثنا عَبْدُ الرَّحِيمِ بْنُ سُلَيْمَانَ، عَنْ لَيْثٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْأَسَدِ، عَنْ أَبِيهِ، عَنْ عَبْدِ اللَّهِ، قَالَ: خَرَجْتُ مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لِحَاجَتِهِ فَقَالَ: "ابْنِي يَحْيَى أَشْتَجِي بِهِ، وَلَا تُقَرِّبْنِي حَائِلًا وَلَا رَجِيعًا". (ص: 671)
وهذه الرواية إن ضحكت ثقوى رواية أبي إسحاق، عن عبد الرحمن بن الأسود، إلا أن لَيْثَ بْنَ أَبِي سُلَيْمٍ ضَعِيفٌ (السنن الكبرى للبيهقي، ٧٢٥، جماع أبواب الإستطالة)

[6] The narrations of Layth ibn Abi Sulaym (d. 140 H) were used as supporting evidence in Sahih al-Bukhari and Sahih Muslim, though not as independent proof. His narrations are found in the four Sunan, and many prominent authorities of hadith took hadith from him, including Shu'bah ibn al-Hajjaj and Sufyan al-Thawri. Yahya ibn Ma'in said "there is no harm in him" (which for him is equivalent to thiqah). Imam al-Tirmidhi graded some of his hadiths hasan, and he reported from his teacher, Imam al-Bukhari, that he said, "Layth ibn Abi Sulaym is reliable (saduq) and sometimes he would err in something" (al-Jami' al-Kabir, Dar al-Ma'arif, 4:497). However, most critics said there is weakness in his hadiths as he would mix-up his narrations, sometimes making a mawquf hadith marfu' or narrating from 'Ata', Mujahid and Tawus what he only heard from one of them. In fact, al-Daraqutni (d. 385) stated that this confusion in the chain was the only reason why many scholars disapproved of him (Fath al-Mulhim, 1:314). Hence, his weakness is only slight. Based on this, Mawlana Zafar Ahmad al-'Uthmani concluded that his hadiths are hasan. (I'tla as-Sunan, vol. 6, pg. 85)

[7] سير أعلام النبلاء للذهبي، ٤٨-٤٩، لَيْثٌ بَنُ أَبِي سُلَيْمٍ بَنَ زَيْنَبِ الْأُمَوِيِّ مَوْلَاهُمْ

[8] وقال الجوزجاني: سيء الحفظ، مضطرب الحديث، مائل.
قُلْتُ: فِيهِ تَشْبُعٌ خَفِيفٌ عَلَى قَاعِذَةِ أَهْلِ بَلَدِهِ.
وَكَانَ مِنْ كِبَارِ الْفُقَهَاءِ، وَبَيْنَهُ وَبَيْنَ الْإِمَامِ أَبِي حَنِيفَةَ وَقَائِعٌ.
قَالَ إِبْرَاهِيمُ بْنُ سَعِيدٍ الْجَوْهَرِيُّ: أَخْطَأَ شَرِيكَ فِي أَرْبَعِمِائَةِ حَدِيثٍ.

قَالَ عَبَّاسٌ: ذَكَرْتُ لِابْنِ مَعِينٍ إِسْرَائِيلَ، وَشَرِيكَ، فَقَالَ: مَا فِيهِمَا إِلَّا ثَبْتُ. وَقَالَ: شَرِيكَ أَثْبَتُ مِنْ أَبِي الْأَحْوَصِ، ثُمَّ سَمِعْتُ ابْنَ مَعِينٍ يَقُولُ: إِسْرَائِيلُ أَثْبَتُ مِنْ شَرِيكَ. وَقَالَ: كَانَ يَخْبِي الْقَطَّانُ لَا يَحْدُثُ عَنْ هَذَيْنِ.
رَوَى مُحَمَّدُ بْنُ يَحْيَى الْقَطَّانُ، عَنْ أَبِيهِ، قَالَ: رَأَيْتُ تَخْلِيْفًا فِي أَصُولِ شَرِيكَ.
وَقَالَ أَبُو يَحْيَى: سَمِعْتُ ابْنَ مَعِينٍ يَقُولُ: شَرِيكَ ثَقَّةٌ، إِلَّا أَنَّهُ يَغْلُطُ، وَلَا فِي يَقِيْنٍ، وَيَذْهَبُ بِنَفْسِهِ عَلَى سَفِيْانٍ، وَشُعْبَةَ.
وَقَالَ الدَّارَقُطْنِيُّ: لَيْسَ شَرِيكَ بِقَوِيٍّ فِيمَا يَنْقَرِدُ بِهِ.
(سير أعلام النبلاء للذهبي، ٧٠٢١- شريك)

[9] أَخْبَرَنَا أَبُو عَبْدِ اللَّهِ الْخَافِظُ، أَخْبَرَنَا بَكْرُ بْنُ مُحَمَّدٍ الصَّرْفِيُّ، مَرْوً، حَدَّثَنَا جَعْفَرُ بْنُ مُحَمَّدٍ بْنِ شَاكِرٍ، حَدَّثَنَا الْحُسَيْنُ بْنُ مُحَمَّدٍ الْمَرْوُزِيُّ، حَدَّثَنَا شَرِيكَ، عَنْ مَنْصُورٍ، عَنْ أَبِي خَالِزٍ، عَنْ أَبِي هُرَيْرَةَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "اللَّهُمَّ اغْفِرْ لِلْحَاجِّ وَلِمَنْ اسْتَغْفَرَ لَهُ الْحَاجُّ" (شعب الإيمان للبيهقي، ٧١٨٢، فضل الحج و العمرة)

[10] أَبُو بَكْرٍ قَالَ: حَدَّثَنَا شَرِيكَ، عَنْ جَابِرٍ، عَنْ مُجَاهِدٍ، أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «اللَّهُمَّ اغْفِرْ لِلْحَاجِّ وَلِمَنْ اسْتَغْفَرَ لَهُ الْحَاجُّ» (مصنف ابن أبي شيبة، ٨٥٦٢١، باب ما قالوا في ثواب الحج)

[11] [قال الشيخ محمد عوامة في تعليقه علي المصنف لابن أبي شيبة] و شريك: ضعيف الحديث لكثرة خطئه، و قد تغير دهرًا طويلا من حين القضاء...و أيضا قال ابن القطان في بيان الوهم و الإبهام (٤٣٥/٣) هو مشهور بالتدليس.
(المصنف لابن أبي شيبة مع تحقيق الشيخ محمد عوامة، ٩٤٧، ج ١، ص ٤٧٤، دار قرطبه)

[21] أخبرنا محمد بن محمد بن عبد الوهاب المدني، أنبأ أبو عبد الله الجمال، ثنا عبد الله بن جعفر، ثنا عبد الله بن رجاء، ثنا شيبان، عن جابر، عن مجاهد، قال: [21] رسول الله صلى الله عليه وسلم: اللهم اغفر للحاج ولمن استغفر له الحاج (الترغيب و التهيب للثيمي، ج ٢، ص ٩١، دار الحديث)

[31] حَدِيثٌ: يُغْفَرُ لِلْحَاجِّ وَلِمَنْ اسْتَغْفَرَ لَهُ الْحَاجُّ، الْبَرَاءُ وَالطَّرَافِي فِي الصَّغِيرِ عَنْ أَبِي هُرَيْرَةَ بِهِ مَرْفُوعًا، وَهُوَ عِنْدَ ابْنِ خُرَيْمَةَ فِي صَحِيحِهِ، وَالْحَاكِمُ فِي مُسْتَدْرَكِهِ، وَالْبَيْهَقِيُّ بِلفظ: اللَّهُمَّ اغْفِرْ لِلْحَاجِّ وَلِمَنْ اسْتَغْفَرَ لَهُ الْحَاجِّ، وَقَالَ الْحَاكِمُ: إِنَّهُ عَلَى شَرْطِ مُسْلِمٍ، وَتَعْقِبُ بَأَنَّ فِي سَنَدِهِ شَرِيكَ الْقَاضِي، وَلَمْ يَخْرُجْ لَهُ إِلَّا فِي الْمُنَابَعَاتِ، وَلَكِنْ لَهُ شَاهِدٌ عِنْدَ الثَّيْمِيِّ فِي تَرْغِيْبِهِ عَنْ مُجَاهِدٍ. مَرْسَل (المقاصد الحسنة، ٧٤٣١، حرف الياء الأخيرة)

[41] [قال الشيخ محمد عوامة في تعليقه علي المصنف لابن أبي شيبة] قول مجاهد...هذا مرسل و له حكم الرفع، و قد قال يحي القطان: مرسلات مجاهد أحب الي من مرسلات عطاء بن أبي رباح بكثير
(المصنف لابن أبي شيبة مع تحقيق الشيخ محمد عوامة، ٢٧٢١، ج ٢، ص ٣٧، دار قرطبه)

[51] ويجوز عند أهل الحديث وغيرهم التساهل في الأسانيد ورواية ما سوى من الضعيف والعمل به من غير بيان ضعفه في غير صفات الله تعالى والأحكام كالحلال والحرام وغيرهما، وذلك كالقصص وفضائل الأعمال والمواظع وغيرهما مما لا تعلق له بالعقائد والأحكام اه
(تدريب الراوي، ص ٢٥٢، قديمي كتب خاته):

قالوا: إذا روي في الحلال والحرام شذذنا، وإذا روي في الفضائل ونحوها تساهلنا اه...وذكر شيخ الإسلام له ثلاثة شروط: أحدها: أن يكون الضعيف غير شديد فيخرج من انفراد من الكاذبين والمتهمين بالكذب، ومن فحش غلطه، نقل العلائق الإتفاق عليه. الثاني: أن يندرج تحت أصل معمول به. الثالث: أن لا يعتقد عند العمل به بثبوته، بل يعتقد الإخبار
(تدريب الراوي، ص ١٥٢-٢٥٢، قديمي كتب خاته):

قال العلماء من المحدثين والفقهاء وغيرهم: يجوز ويستحب العمل في الفضائل والترغيب والترهيب بالحديث الضعيف ما لم يكن موضوعا (القول البديع، ج ١، ص ٨٥٢، مؤسسة الريان)

DUA FOR THE DISTRESSED

Q: What is the prayer to supplicate when one is distressed and a huge calamity has befallen him? Is there anything advised from hadith by the prophet?

A: When Nabi Salallahu Alayhi Wasallam would be faced with a calamity he would recite the following dua:

”أَعُوذُ بِكَلِمَاتِ اللَّهِ التَّامَّةِ مِنْ غَضَبِهِ وَمِنْ شَرِّهِ عِبَادِهِ، وَمِنْ هَمَزَاتِ الشَّيَاطِينِ وَأَنْ يَحْضُرُونِ”

Transliteration: Authu bii kalimatillahi taamati min gadabihi wa min shari ibadihi wa min shari hamazati shaytan wa anyhduroon.

Nabi Salallahu Alayhi Wasallam would recite the following dua when he would be distressed:

اللَّهُمَّ أَنَا عَبْدُكَ، وَابْنُ عَبْدِكَ، وَابْنُ أَمَتِكَ، فِي قَبْضَتِكَ، نَاصِيَتِي بِيَدِكَ، مَا ضُيِّفَ فِي حُكْمِكَ، عَدْلٌ فِي قَضَاؤِكَ، أَسْأَلُكَ بِكُلِّ اسْمٍ هُوَ لَكَ سَمِيَّتٌ بِهِ نَفْسُكَ، أَوْ أُنْزِلَتْهُ فِي كِتَابِكَ، أَوْ عَلَّمْتَهُ أَحَدًا مِنْ خَلْقِكَ، أَوْ اسْتَأْثَرْتُ بِهِ فِي عِلْمِ الْغَيْبِ عِنْدَكَ، أَنْ تَجْعَلَ الْقُرْآنَ الْعَظِيمَ نُورَ صَدْرِي، وَرَبِيعَ قَلْبِي، وَجَلَاءَ حُزْنِي، وَدَهَابَ هَمِّي“

Allahuma ana abduk wabnu abdik wabnu amatik fi qabthatik nasi-yati biyadik mathin fi hukmuk adlun fi qadauk asaluka bikuli ismin huwa laka sammayta bihi nafsak aw anzultahu fi kitabik aw ullaamta-hu ahadan min khalqik aw istatharta bihi fi ilmil ghaibi indak an tjalaal Quraan al-atheem nura sadri wa rabeea qalbi wa jalaa a huzni wa thahaba hummi.

حدثنا محمد بن علي بن عبد الله بن عباس، عن أبيه، أنه حدثه، عن ابن عباس، أنه حدثه، قال: قال رسول الله صلى الله عليه وسلم: «من لزم الاستغفار، جعل الله له من كل ضيق مخرجاً، ومن كل هم فرجاً، ورزقه من حيث لا يحتسب»

It is also mentioned in a hadith that person who continuously reads istigfar Allah Taala will create a path for him from every difficulty and from every grief relief, and Allah Taala will give him rizq from where he wouldn't fathom.

الاذكار لنووي ص 691-613 دار ابن كثير
الاذكار لنووي ص 691-713 دار ابن كثير
ابو داود- 3151 دار اليسر

12TH RABĪ AL-AWWAL CELEBRATIONS

Q: There has been much discussion with regards to celebrating 12th Rabī al-Awwal. You must be well aware of all the academic arguments in that regard. Without delving into academic gymnastics, your brief thoughts on this issue will be well appreciated.

A: The code of our Imān is لا إله إلا الله محمد الرسول الله That is to believe in the Oneness of Allāh Ta'ālā and the Nubuwwah of Rasūlullāh Sallallāhu Alaihi Wa Sallam. Belief and reverence for Rasūlullāh Sallallāhu Alaihi Wa Sallam is an integral and inseparable component of our faith. Imān cannot be accepted without believing in and revering Rasūlullāh Sallallāhu Alaihi Wa Sallam.

The actual reverence of Rasūlullāh Sallallāhu Alaihi Wa Sallam is to believe that:

1. Rasūlullāh Sallallāhu Alaihi Wa Sallam came to this world as the greatest human being. This is a reality and not just a fairy tale.
2. Rasūlullāh Sallallāhu Alaihi Wa Sallam was chosen by Allāh Taʿālā to be the recipient of divine revelation (Wahi).
3. Rasūlullāh Sallallāhu Alaihi Wa Sallam was bestowed the responsibility of conveying the message of Allāh Taʿālā to humanity, which he fulfilled in the best manner.
4. Among the various Messengers of Allāh Taʿālā, Rasūlullāh Sallallāhu Alaihi Wa Sallam was the leader and most superior.
5. Love of Allāh Taʿālā and happiness in both the worlds lies only in following the Sunnats of Rasūlullāh Sallallāhu Alaihi Wa Sallam.

The salvation and Najāh of every human being is directly linked with believing in Rasūlullāh Sallallāhu Alaihi Wa Sallam. When one is placed inside the grave, he/she will be asked to recognize Rasūlullāh Sallallāhu Alaihi Wa Sallam. Consider the following narration:

يُقَالُ مَا عَلِمَكَ بِهَذَا الرَّجُلِ؟ (صحيح البخاري، ج 1، ص 82: دار طوق النجاة)

Translation: The deceased will be questioned in the grave: “What do you know about this man (Rasūlullāh Sallallāhu Alaihi Wa Sallam)?” (Sahīh Al-Bukhārī, Vol. 1, Page 28: Dār Tauq An-Najāh) In order for one to be true in revering Rasūlullāh Sallallāhu Alaihi Wa Sallam, the overwhelming thought of Rasūlullāh Sallallāhu Alaihi Wa Sallam should be present every moment of one’s life.

The demand of love is that the lover yearns to be in the company of the beloved. If this is not possible, then one adopts the beautiful

ways and lifestyle of the beloved in order to pacify the uncontainable passion within the heart that would otherwise gush out.

Even if one were to dedicate one's entire life to serve the Sunnats and ways of Rasūlullāh Sallallāhu Alaihi Wa Sallam, this would fall short of doing justice to the reverence that ought to be showed, keeping in mind endless efforts and sleepless nights of Rasūlullāh Sallallāhu Alaihi Wa Sallam for the sake of his Ummah. Merely taking out one day or one month discussing different angles of the beautiful life of Rasūlullāh Sallallāhu Alaihi Wa Sallam is not sufficient.

A Mu'min (believer) should spend every day of his life in imitating and spreading the Sunnats of Rasūlullāh Sallallāhu Alaihi Wa Sallam. Nevertheless, we cherish any opportunity we get to talk about Rasūlullāh Sallallāhu Alaihi Wa Sallam and inculcate in us and others the love and reverence of Rasūlullāh Sallallāhu Alaihi Wa Sallam.

قُلْ إِنَّمَا أَنَا بَشَرٌ مِثْلُكُمْ يُوحَىٰ إِلَيَّ أَنَّمَا إِلَهُكُمُ إِلَهُ وَاحِدٌ فَمَن كَانَ يَرْجُوا لِقَاءَ رَبِّهِ فَلْيَعْمَلْ عَمَلًا صَالِحًا وَلَا يُشْرِكْ بِعِبَادَةِ رَبِّهِ أَحَدًا (سورة الكهف، رقم الآية 111)

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ (سورة الانبياء، رقم الآية 701)

قُلْ إِنَّمَا أَنَا بَشَرٌ مِثْلُكُمْ يُوحَىٰ إِلَيَّ أَنَّمَا إِلَهُكُمُ إِلَهُ وَاحِدٌ فَمَن كَانَ يَرْجُوا لِقَاءَ رَبِّهِ فَلْيَعْمَلْ عَمَلًا صَالِحًا وَلَا يُشْرِكْ بِعِبَادَةِ رَبِّهِ أَحَدًا (سورة الكهف، رقم الآية 111)

بِأَيُّهَا الرَّسُولُ بَلِّغْ مَا أُنْزِلَ إِلَيْكَ مِنْ رَبِّكَ وَإِنْ لَمْ تَفْعَلْ فَمَا بَلَغْتَ رِسَالَتَهُ وَاللَّهُ يَعْصِمُكَ مِنَ النَّاسِ إِنَّ اللَّهَ لَا يَهْدِي الْقَوْمَ الْكَافِرِينَ (سورة المائدة، رقم الآية 76)

حَدَّثَنِي عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ، حَدَّثَنَا أَبُو عَامِرٍ، حَدَّثَنَا قُرَّةٌ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ، قَالَ: أَخْبَرَنِي عَبْدُ الرَّحْمَنِ بْنُ أَبِي بَكْرَةَ، عَنْ أَبِي بَكْرَةَ، وَجَرَّلَ - أَفْضَلُ فِي نَفْسِي مِنْ عَبْدِ الرَّحْمَنِ -، مُحَمَّدُ بْنُ عَبْدِ الرَّحْمَنِ، عَنْ أَبِي بَكْرَةَ رَضِيَ اللَّهُ عَنْهُ، قَالَ: خَطَبَنَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَوْمَ الْخُرُجِ، قَالَ: «أَتَدْرُونَ أَيُّ يَوْمٍ هَذَا؟» ، قُلْنَا: اللَّهُ وَرَسُولُهُ أَعْلَمُ، فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيُسَمِّيهِ بِغَيْرِ اسْمِهِ، قَالَ: «الْيَسَّ يَوْمَ الْخُرُجِ؟» قُلْنَا: بَلَى، قَالَ: «أَيُّ شَهْرٍ هَذَا؟» ، قُلْنَا: اللَّهُ وَرَسُولُهُ أَعْلَمُ، فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيُسَمِّيهِ بِغَيْرِ اسْمِهِ، فَقَالَ «الْيَسَّ ذُو الْحِجَّةِ؟» ، قُلْنَا: بَلَى، قَالَ «أَيُّ بَلَدٍ هَذَا؟» قُلْنَا: اللَّهُ وَرَسُولُهُ أَعْلَمُ، فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيُسَمِّيهِ بِغَيْرِ اسْمِهِ، قَالَ «الْيَسَّ بِالْبَلَدَةِ الْخَرَامِ؟» قُلْنَا: بَلَى، قَالَ: «فَإِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ، كَهَرْمَةِ يَوْمِكُمْ هَذَا، فِي شَهْرِكُمْ هَذَا، فِي بَلَدِكُمْ هَذَا، إِلَى يَوْمٍ تَلْقَوْنَ رَبَّكُمْ، أَلَا هَلْ بَلَّغْتُ؟» ، قَالُوا: نَعَمْ، قَالَ: «اللَّهُمَّ اشْهَدْ، فَلْيَبْلُغِ الشَّاهِدَ الْغَائِبَ، قَرِيبٌ مِّبْلَغٍ أَوْعَى مِنْ سَامِعٍ، فَلَا تَرْجِعُوا بَعْدِي كُفَّارًا، يَضْرِبُ بَعْضُكُمْ رِقَابَ بَعْضٍ (صحيح البخاري، باب الخطبة أيام منى، رقم الحديث 1471)

حَدَّثَنِي الْحَكَمُ بْنُ مُوسَىٰ أَبِي صَالِحٍ، حَدَّثَنَا هِجَلُ بْنُ زَيْدٍ، عَنْ الْأَوْزَاعِيِّ، حَدَّثَنِي أَبُو عَمَارٍ، حَدَّثَنِي عَبْدُ اللَّهِ بْنُ قُرُوخٍ، حَدَّثَنِي أَبُو هُرَيْرَةَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «أَنَا سَيِّدٌ وَلَدْتُ يَوْمَ الْقِيَامَةِ، وَأَوَّلُ مَنْ يَنْشَقُّ عَنْهُ الْقَبْرُ، وَأَوَّلُ شَافِعٍ وَأَوَّلُ مُشَفِّعٍ» (صحيح مسلم، باب تفضيل نبيِّنا صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى جَمِيعِ الْخَلَائِقِ)

قُلْ إِنْ كُنْتُمْ تُحِبُّونَ اللَّهَ فَاتَّبِعُونِي يُحْبِبْكُمُ اللَّهُ وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ وَاللَّهُ غَفُورٌ رَّحِيمٌ (سورة آل عمران، رقم الآية 13)

إمداد الأحكام، ج 1، ص 781، مكتبة دار العلوم كراتشي

فتاوى محمودية، ج 3، ص 771، فاروقية

مسائل رفعت قاسمي جديد، ج 6، ص 671، حامد كتب خانه كراتشي

UNIQUE NAME FOR MY CHILD?

Q: My name is “Janeef” and my wife is “Jafnabi” and we call her “Jafna”. None of these names have meaning as far as we know. Do we have to change it? If yes, do we have to change it in official records or can we just use the new name to call each other? Also will our parents be sinful for using such names?

A: The Prophet Sallallahu Alaihi Wa Sallam has ordered us to keep good names. It is mentioned in a Hadith:

إِنَّكُمْ تُدْعَوْنَ يَوْمَ الْقِيَامَةِ بِأَسْمَائِكُمْ، وَأَسْمَاءِ آبَائِكُمْ، فَأَحْسِنُوا أَسْمَاءَكُمْ

“You shall all be called upon on the Day of Judgment by your names and the names of your respective fathers. Keep good names for yourselves.”

Names of countries, cities, streets, airports, universities, and individuals are not merely named for identification purposes. Names also represent a belief of an individual or a group of people. Some of them can also represent a philosophy or some historical event.

In South Africa, names of airports and streets representing apartheid icons have been changed to names of veterans of the liberation struggle. Louis Boths Airport in Durban is now known as King Shaka International Airport. Louis Boths was an apartheid icon. King Shaka is the legendary leader of the Zulus. Jan Smuts Airport in Johannesburg is now called O.R. Tambo Airport. Many streets in Durban have been changed to the names of veterans of the liberation movement. Some new streets are Anton Lembede Street, Xuma Street, Yusuf Dadoo Street etc.

There were many sensitivities in the renaming process. The name of one icon is removed to replace it with another. The idea was to highlight a personality and to promote the values he/she represented and fought for.

It is clear from this that naming a person is not just about naming and creating an identity. As Muslims, when we name our children after the names of the Prophets, Sahabah and Auliya (pious servants of Allah), it also serves as a reminder to one of the values of these great luminaries. Keeping such names, have the potential to revolutionize a nation. When every second person is named after an illustrious prophet or an illustrious Sahābi, this will give rise to the value system of such people by studying those personalities and going deeper into what they represented.

As Muslims, we should adhere to keeping Islamic names to advance the Islamic value that goes with the name. However, you are not required to change your names in the official records. You and your wife may simply use Islamic names for one another.

(سنن أبي داود، ج4 ص782، المكتبة العصري
(Sunnan Abi Dawood, V.4 Pg.287, Al-Maktabah Al-Asriyyah)

ARE YOU SERVING DEEN OR IS DEEN SERVING YOUR NAFS?

Q: While at work I never try to initiate any talk with males, except if needed. Some of the males at work do not pray Salah, perhaps I can remind them to. Also can I send them Islamic lectures etc, they are soft hearted when it comes to Deen, I feel they will benefit. I want to know what is the limit for a female to give Da'wah to males.

A : You should confine your contact with males only to the need. In that instance, your speech should be firm and to the point. The purpose of such conduct is to avoid attractive and alluring speech which has a potential of fitna. To achieve that, one does not have to be rude. In many instances men and women enter into discussions with the intention of Da'wah but end up in a personal relationship. They reach a point where Deen is no more the motive. Fulfilling their passion and desires overcomes them. This is done in the name of Da'wah. This then results in them using Deen to fulfill their desires rather than serving Deen.

While we understand the need for Da'wah, it is equally or more important to guard ones morals and chastity. The Nafs can never be trusted. What is the point of wanting to do good that eventually leads to evil? If you come across someone genuinely interested in Deen, it is safest to refer the person to a male who specializes in Da'wah or pass over appropriate Islamic literature to the person. This will be in keeping with your dignity and honour while also fulfilling the need of Da'wah.

HAJJ AND UMRAH GREETINGS

Q : I have friend going to Hajj and would like to know what is the Sunnah greeting to say before he departs for the Hajj pilgrimage?

A : When greeting family and friends before departing from them for any journey, Haj etc. recite the following dua.

استودعكم الله الذى لا تضيع ودائعه

Translation: I entrust you to Allah, who does not lose what He has been entrusted with. (Al-Bahrul-Aameeq Vol.1 Pg.463 Al-Maktabatul Makkiyya)

One may recite the following dua when commencing the journey of Hajj.

بسم الله على نفسي و مالي و ديني اللهم رضنى بما قضيت لى حتى لا احب تعجيل ما اخرت ولا تأخير ما عجلت

Translation: In the name of Allah who is the complete controller of my life and wealth and my religion. Oh Allah make me pleased with what you decreed for me until I do not love to quicken what you delayed and I do not delay what you have hastened.

(Masalik-ul-Manasik Vol.1 Pg.181 Dar-ul-Bashair-ul-Ilmiyya)

البحر العميق في مناسك المعتمر و الحاج الى البيت العميق ج 1 ص 364 المكتبة الوكية
دار البشائر العلمية المسالك المناسك ج 1 ص 181

INTUITION WITH HORSES

Q: Is it permissible to use healing methods employed by animal whisperers? Is there still reward for breeding horses with the intention of using them for Jihād should the need arise?

A: Animal whisperers communicate with animals using the concept of intuition and telepathy. This ability to intuitively com-

municate is a deep form of what is understood from the Arabic term ‘firāsah’. Animal whisperers therefore communicate emotionally and mentally with the animals they treat to diagnose illnesses or decipher feelings the animals are experiencing. Their conclusions have the possibility of being correct or incorrect. This being the case, there is no problem in consulting animal whisperers or attending their communication sessions for treating or diagnosing illnesses in animals and pets or for training them.

In an authentic Hadīth, Nabi Sallallāhu alaihi wa Sallam has mentioned:

«الْخَيْلُ مَعْقُودٌ فِي نَوَاصِيهَا الْخَيْرُ إِلَى يَوْمِ الْقِيَامَةِ» [صحيح البخاري (0582)]

Goodness is pinned to the forelocks of the horse until the Day of Qiyāmah. [Al-Bukhāri, Hadīth no. 2850]

The commentators of Hadīth mention that the horse referred to in this Hadīth is that horse which is kept for fighting in the Path of Allah.

Horses have a close association with the concept of Jihād in Islām as can be established from the Qurān and Hadīth. They have also been given special significance in that a Mujahid mounted on a horse would receive double the booty of the fighter on foot or mounted on any other conveyance.

Thus, if a person breeds horses with the sincere intention that they would be used in Jihād, then this will be a meritorious act for which he will be rewarded.

وَأَنَّهُ لَا بَأْسَ لِلْإِنْسَانِ أَنْ يَتَكَلَّمَ بِهَذَا بِطَرِيقِ الْفَرَّاسَةِ؛ فَإِنَّ أَبَا بَكْرٍ - رَضِيَ اللَّهُ عَنْهُ - قَالَ ذَلِكَ بِفَرَّاسَتِهِ، وَلَمْ يَكُنْ ذَلِكَ مِنْهُ رَجُماً بِالْغَيْبِ، فَإِنَّ مَا فِي الرَّجْمِ لَا يَتَعَلَّمُ حَقِيقَتَهُ إِلَّا اللَّهُ - تَعَالَى - كَمَا قَالَ اللَّهُ - تَعَالَى - (وَيَعْلَمُ مَا فِي الْأَرْحَامِ) [الغمان: 43]. وَلِهَذَا قِيلَ: أَفَرَسَ النَّاسَ أَبُو بَكْرٍ - رَضِيَ اللَّهُ عَنْهُ -؛ حَيْثُ تَقَرَّسَ فِي حَبْلِ أَمْرَاتِهِ أَنَّهَا جَارِيَةٌ، فَكَانَ كَمَا تَقَرَّسَ، وَتَقَرَّسَ فِي عُمَرَ - رَضِيَ اللَّهُ عَنْهُ - حِينَ اسْتَخْلَفَهُ بَعْدَهُ. (المبسوط للسرخسي (15-05/21))

وَالْفَرَّاسَةُ نَائِبَةٌ عَنْ جُودَةِ الْقَرِيحَةِ وَجِدَةِ النَّظَرِ وَضَاءِ الْفِكْرِ، وَقَدْ رُوِيَ عَنْ عُمَرَ بْنِ الْخَطَّابِ - رَضِيَ اللَّهُ عَنْهُ - أَنَّهُ دَخَلَ عَلَيْهِ قَوْمٌ مِنْ مَدَجَجٍ فِيهِمْ الْأَنْثَرُ، فَصَعَّدَ عُمَرُ فِيهِ النَّظَرَ وَصَوَّبَهُ وَقَالَ: أَلَيْسَ هَذَا؟ فَقِيلَ: مَالِكُ بْنُ الْحَارِثِ، فَقَالَ: مَا لَهُ قَاتِلُهُ اللَّهُ؟ إِنْ لَأَرَى لِلْمُسْلِمِينَ مِنْهُ يَوْمًا عَصِيبًا، فَكَانَ مِنْهُ فِي الْفِتْنَةِ مَا كَانَ. وَدَخَلَ الْمَدِينَةَ وَقَدْ مِنْ الْيَقِينِ وَكَانَ عُمَرُ وَالصَّخَابَةُ فِي الْمَسْجِدِ فَأَشَارُوا إِلَى رَجُلٍ مِنَ الْوُفْدِ وَقَالُوا لِعُمَرَ: هَلْ تَعْرِفُ هَذَا؟ فَقَالَ: لَعَلَّهُ سَوَادُ بْنُ قَارِبٍ، فَكَانَ كَذَلِكَ. وَكَانَ عُمَرُ - رَضِيَ اللَّهُ عَنْهُ - يَطُوفُ بِالنَّبِيِّتِ فَسَمِعَ امْرَأَةً تَتَشُدُّ فِي الطَّوَافِ: وَمِنْهُمْ مَنْ تُشَقَّى بِعَذَابٍ مُبِيرٍ ... نَفَاحَ فَيْلَكُمُ عِنْدَ ذَلِكَ قَرَّتْ، وَمِنْهُمْ مَنْ تُشَقَّى بِأَخْفَرٍ أَجَنٍ ... أَجَاجٌ وَلَوْ لَا خَشْيَةُ اللَّهِ رَثْتُ، فَتَقَرَّسَ عُمَرُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِيمَا شَكَّتْ، فَبَعَثَ عُمَرُ إِلَى زَوْجَتِهَا فَاسْتَنْكَهَتْ فَإِذَا هُوَ أَبْعَزُ النَّفَمِ، فَأَعْطَاهُ خَمْسِيَّةً وَجَارِيَةً عَلَى أَنْ يُطْلِقَهَا فَفَعَلَ. وَرُوِيَ أَنَّ بَعْضَ الصَّخَابَةِ دَخَلَ عَلَى عُثْمَانَ - رَضِيَ اللَّهُ عَنْهُ - وَقَدْ كَانَ مَرَّ بِالشُّوقِ فَتَنَظَّرَ إِلَى امْرَأَةٍ، فَلَمَّا نَظَرَ إِلَيْهِ عُثْمَانُ قَالَ لَهُ: يَدْخُلُ أَحَدُكُمْ عَلَيْكَ، وَفِي عَيْنَيْهِ أَثَرُ الرِّثَاءِ، فَقَالَ لَهُ الرَّجُلُ: أَوْحَى بَعْدَ رَسُولِ اللَّهِ - رَضِيَ اللَّهُ عَنْهُ -؟ فَقَالَ: لَا، وَلَكِنْ يُرْهَانُ وَفَرَّاسَةً. وَمِثْلُ هَذَا كَثِيرٌ عَنْ عَلِيٍّ (معين الحكام فيما يتردد بين الخصمين من الأحكام، دار الفكر (ص: 861))

بَابُ مَنْ احْتَسَبَ فَرَسًا فِي سَبِيلِ اللَّهِ لِقَوْلِهِ تَعَالَى: (وَمَنْ رِبَاطَ الْخَيْلِ) [الأنفال: 06]

حَدَّثَنَا عَلِيُّ بْنُ حُفْصٍ، حَدَّثَنَا ابْنُ الْمُبَارَكِ، أَخْبَرَنَا طَلْحَةُ بْنُ أَبِي سَعِيدٍ، قَالَ: سَمِعْتُ سَعِيدَ الْمَقْبُرِيِّ، يُحَدِّثُ أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ، يَقُولُ: قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ احْتَسَبَ فَرَسًا فِي سَبِيلِ اللَّهِ إِمَامًا بِاللَّهِ وَتَصْدِيقًا بِوَعْدِهِ، فَإِنَّ شِبَعَهُ وَرِثَهُ وَرَوَّتَهُ وَبَوَلَهُ فِي مِيزَانِهِ يَوْمَ الْقِيَامَةِ» (صحيح البخاري، دار طوق النجاة (4/82))

أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ سَأَلَ اللَّهَ الشَّهَادَةَ بِصِدْقٍ بَلَغَهُ اللَّهُ مَنَازِلَ الشُّهَدَاءِ، وَإِنْ مَاتَ عَلَى فِرَاسِهِ» فَأُخْبِرَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَنَّ مَنْ كَانَتْ مَعَهُ النِّيَّةُ فِي تَقْنِيَةِ الشَّهَادَةِ، كَانَ بِذَلِكَ مِنْ أَهْلِهِ، وَإِنْ لَمْ يُصِبْهُ الْقَتْلُ بِهَا، وَلَا مَا سِوَاهُ مِنَ الْأَشْيَاءِ الْمَذْكُورَةِ فِي هَذِهِ الْأَقَارِ، وَفِي ذَلِكَ دَلِيلٌ عَلَى مَا ذَكَرْنَا مِنْهَا حَمَلْنَا عَلَيْهِ الْأَثَرُ الَّتِي ذَكَرْنَا فِي هَذَا الْبَابِ، وَاللَّهُ عَزَّ وَجَلَّ نَسَّأَلُهُ التَّوْفِيقَ. (شرح مشكل الآثار، مؤسسة الرسالة (011/31))

TABLIGHI JAMAAT IN KAZAKHSTAN

A request came to the Darul Iftaa for a Fatwā clarifying the motives of the Tablighī Jamāt in order to present to the Kazakhstani court. According to the letter, the Kazakhstani government banned the movement of the Tablighī Jamāt. The Tablighī Jamāt is no longer considered a religious movement in Kazakhstan and is classified as an extremist movement.

The Fatwā was presented to Sheikhul Hadith Hadhrat Moulana Fazlur Rahman Azmi Saheb Damat Barakatuhum. Hadhrat checked the Fatwā and approved it.

The Fatwā:

The Honourable Judge,
Assalamualaikum.

In response to a request seeking clarity on the Tabligh Jamāt movement, we hereby present the following.

An independent investigation on any issue is the corner stone of justice and fairness as also understood from the following verse of the Holy Quran:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنِ جَاءَكُمْ فَاسِقٌ بِنَبَأٍ فَتَبَيَّنُوا أَنْ تُصِيبُوا قَوْمًا بِجَهَالَةٍ فَتُصْحَبُوا عَلَىٰ مَا فَعَلْتُمْ نَادِمِينَ (سورة الحجرات، رقم الآية 6)

O' those who believe, if a sinful person brings you a report, verify its authenticity, lest you harm a people out of ignorance then become remorseful on what you did. (Qurān 49:6)

We understand the importance of political stability and the need for the intelligence of the Government to closely observe and monitor the activities of various organizations. We appreciate that and welcome such scrutiny as that process helps to filter the true and sincere organizations working for the general welfare of mankind from disruptive ones.

We take this privilege to introduce your honourable self to the noble activities of the Tabligh movement. At the outset, the Tabligh movement is apolitical and has no political agenda at all. The core of the movement is to create Allāh consciousness in people and make them obedient slaves of Allāh. The aim and objective of the Tabligh movement is to secure eternal success for every human being and to prepare for life after death and accountability to Allāh.

The Tabligh movement instills this sense of responsibility in every person and creates in him the desire to sacrifice his time and resources to come out in the path of Allāh for self-reformation and to inspire others.

This self-sacrifice approach driven by Allāh consciousness and concern for eternal success has been proven to be exceptionally successful throughout the world. Millions of people have reformed their lives and started coming to the Masjids to perform Salāh. They have changed their lives from immorality and shamelessness to being spiritually motivated. They have eradicated the debasing qualities and spiritual illnesses from their hearts and have replaced them with noble characteristics such as sincerity, humility, kindness, and well-wishing for all the creation of Allāh including non-Muslims and animals.

The Tabligh movement has impacted many nations and communities and inculcated a great sense of responsibility in people. The core message of focusing on Allāh and placing one's trust in Allāh (Imān and Yaqīn) has made:

- a) The poor to be content with their lot.
- b) The rich and affluent to share their resources and develop the under privileged.
- c) The negligent to stand up to his responsibility and support his family with earning an income.
- d) The careless to abandon wine and intoxicants
- e) The immodest to live a life of chastity and avoid fornication and adultery which erodes the moral fibre of the community.

While a Government may be searching and contemplating on solutions to its various domestic, social, and economical challenges, the Tabligh movement positively contributes to the reformation and solutions of the various problems solely for the pleasure of Allāh and well-being of mankind. They do not seek any political position or any reward. Their reward is by Allāh:

إِنِّ أَجْرِي إِلَّا عَلَى اللَّهِ

My reward is only with Allāh. (Surah Yūnus, Verse 72)

The Tabligh movement focuses only on the following six points to achieve self-reformation:

1. Entrenching the belief in the Oneness of Allāh (Tawhīd)
2. The importance of performing Salāh
3. Education and Remembrance of Allāh
4. To honour fellow Muslims
5. Sincerity (Ikhlas)
6. Propagating the message of Islām

These six points can be condensed in two points-

Being sensitive to Allāh and thereby being obedient to Allāh.
Being sensitive to fellow creations and induce love and harmony for each other.

If anyone attributes anything else to the Tabligh movement other than what we have stated he is misinformed.

Honourable Judge, we are sure you will be guided by your training and skill of justice and fairness in independency, examining the Tabligh movement. We are sure you will conclude that the Tabligh

movement is an asset for mankind and contributes to establishing and promoting a wholesome way of life for one and all.

Checked and Approved by,

**Sheikhul Hadīth Hadhrat Moulana Fazlur Rahman Azmi Saheb
Damat Barakatuhum.**

THE JURISPRUDENCE BEHIND THE DIFFERENT FORMS OF ZIKR

Q: Kindly comment on the different forms of zikr, loud, soft, collective, individual in the majid and elsewhere. Is it a bidah and what is the definition of bidah? Explain it contextually.

A: General loud dhikr is clearly proven from many Ahadith. See the following Hadith:

إِنَّ لِلَّهِ مَلَائِكَةً يَطُوفُونَ فِي الطُّرُقِ يَلْتَمِسُونَ أَهْلَ الذِّكْرِ، فَإِذَا وَجَدُوا قَوْمًا يَذْكُرُونَ اللَّهَ تَنَادَوْا: هَلُمُّوا إِلَى حَاجَتِكُمْ قَالَ: «فَيَحْفُوْنَهُمْ بِأَجْنِحَتِهِمْ إِلَى السَّمَاءِ الدُّنْيَا» قَالَ: ” فَيَسْأَلُهُمْ رَبُّهُمْ، وَهُوَ أَعْلَمُ مِنْهُمْ، مَا يَقُولُ عِبَادِي؟ قَالُوا: يَقُولُونَ: يُسَبِّحُونَكَ وَيَكْبِّرُونَكَ وَيَحْمَدُونَكَ وَيُجَدِّدُونَكَ.....

“Verily there are angels who roam around in the streets in search for people who perform zikr. When they come across a group of people who are engaged in zikr, they call upon (to other angels), “Come forth unto your sustenance!” They spread their wings upon them until the skies. Their lord asks them (the angels) while He is more aware (of the situation of the people of zikr), “What are my servants saying?” The angels reply, “They are glorifying, exalting, and praising you.”.....

In another Hadith, it is stated:

«إِذَا مَرَرْتُمْ بِرِيَاضِ الْجَنَّةِ فَارْتَعَوْا» قَالُوا: وَمَا رِيَاضُ الْجَنَّةِ؟ قَالَ: «حِلَقُ الذِّكْرِ»

“When you come across the gardens of Jannah, receive a portion from it.” The people asked, “What is the garden of Jannah?” He (Prophet) replied, “The gatherings of Zikr.”

In Mirqaat Al-Mafaateeh under the explanation of this Hadith, Mulla Ali Qari Rahmatullahi Alaih quotes with reference to Imam Nawawi Rahmatullahi Alaih:

قَالَ النَّوَوِيُّ رَحِمَهُ اللَّهُ: وَاعْلَمْ أَنَّهُ كَمَا يُسْتَحَبُّ الذِّكْرُ يُسْتَحَبُّ الْجُلُوسُ فِي حَلَقِ أَهْلِهِ، وَهُوَ قَدْ يَكُونُ بِالْقَلْبِ، وَقَدْ يَكُونُ بِاللِّسَانِ، وَأَفْضَلُ مِنْهُمَا مَا كَانَ بِالْقَلْبِ وَاللِّسَانِ جَمِيعًا، فَإِنْ اقْتَصَرَ عَلَى أَحَدِهِمَا، فَالْقَلْبُ أَفْضَلُ

“Imam Nawawi Rahmatullahi Alaih mentions: As performing zikr is regarded to be preferable, accompanying the gatherings in which zikr takes place is also preferable. Zikr may be performed with the heart or with the tongue. It is better to perform zikr together with the heart and the tongue. However, if one restricts zikr to only the heart or tongue, then doing zikr with the heart is more preferable.” It is possible that you are referring to some specific form of loud dhikr being bidah. It is therefore important to understand the definition of bidah to be able to make the correct conclusion on the various forms of dhikr.

The educational system of Daul Uloom and madrasas as found today were not existent at the time of Rasullullah Sallallahu Alaihi Wa Sallam. In order to be able to understand the Quran and Aha-dith, the Arabic language with Sarf (etymology), Nahw (grammar), Fasahat and Balagah (rhetoric) are taught. Fiqh and Usool-ul-Fiqh, Tafseer and Usool-ut-Tafseer, Hadith and Usool-ul-Hadith are taught in order to be regarded as an Alim of Deen and having authority on

Deen. The knowledge of these subjects is regarded to be compulsory yet no body regards studying these subjects as bidah and prohibits it. This was not the system at the time of Rasullullah Sallallahu Alaihi Wa Sallam.

According to Shari'ah, bidah is defined as follows:

وَالْمُرَادُ بِالْبِدْعَةِ: مَا أُخْدِتَ مِمَّا لَا أَصْلَ لَهُ فِي الشَّرِيعَةِ يَدُلُّ عَلَيْهِ، فَأَمَّا مَا كَانَ لَهُ أَصْلٌ مِنَ الشَّرْعِ يَدُلُّ عَلَيْهِ،
فَلَيْسَ بِبِدْعَةٍ شَرْعًا، وَإِنْ كَانَ يَدْعَةً لُغَةً

“And the meaning of bidah is: that act which has no origin in Shariah that indicates to the origin. If the new act has an origin in Shariah, then it will not be considered as bidah in terms of Shariah even if it may be considered bidah in its literal sense.”

The above definition means that if a person innovates something in Shariah which does not have any origin in Shariah and there is no indication in the new aspect to the origin, then that will be bidah. However, if there is an origin for the new aspect in Shariah and the new aspect indicates to the origin, then it will not be considered bidah. In order to expound on this, the following example will make the point clear. If one wants to become an Alim of Deen and be an authority on Deen, he has to learn all the sciences of Deen as previously indicated, Sarf, Nahw, Usool etc. The study of all these subjects is new but has its roots in its origin that is educating oneself in Shariah (taleem) which is one of the 3 missions of Rasullullah Sallallahu Alaihi Wa Sallam. These subjects are subsidiaries to the origin and preserves to compliment the original, educating oneself in Shariah. Hence, studying the different subjects is not bidah. Furthermore, these subjects are not principle requirements, Fardh, Wajib or Sunnah in Deen. They are administrative issues serving to support and fulfill an origin in Shariah.

In the same light as the above, tazkiyyah (purifying oneself) is Fardh like taleem (education). Both, taleem and tazkiyyah are clearly mentioned in the Quran and Ahadith. The different forms of Zikr which are not specifically stated in the Quran and Ahadith, for example, muraqabah of certain verses of the Quran like *الم يعلم بان الله يري* generally practiced by the Naqshbandiyyah followers or the famous 12 tasbeehaat prescribed by the Chistiyyah Mashaaikh with a specific head movement are aimed to achieve tazkiyyah. These means are tried, tested and proven to be beneficial in obtaining tazkiyyah. Muraqabah with its different forms and zikr with its different forms compliment tazkiyyah and are not regarded as fundamental principles like Fardh, Wajib etc. in Shariah. They are administrative issues to achieve the objective. Hence, these new acts point towards its origin in Shariah which is tazkiyyah. To further elaborate on this, an example of a physically sick person may be appropriate.

When a person is ill, he takes medications which are prescribed to him by a doctor to cure his sickness. Similarly, doing the dhikr of Allah is a spiritual treatment and cure for the heart. When a person does the dhikr of Allah, it removes the spiritual sicknesses and the diseases from the heart.

Tazkiyyah (purifying the soul), is Fardh upon every individual. It has been mentioned in the Quran:

كَمَا أَرْسَلْنَا فِيكُمْ رَسُولًا مِنْكُمْ يَتْلُو عَلَيْكُمْ آيَاتِنَا وَيُزَكِّيكُمْ وَيُعَلِّمُكُمُ الْكِتَابَ وَالْحِكْمَةَ وَيُعَلِّمُكُم مَّا لَمْ تَكُونُوا تَعْلَمُونَ

(القرآن 2:151)

Just as We have sent among you a messenger from yourselves reciting to you Our verses and purifying you and teaching you the Book and wisdom and teaching you that which you did not know. (Quran 2:151)

A special form of dhikr prescribed by a spiritual guide has been tested and found to be efficient by many scholars of the past as a spiritual remedy. It has been recorded to treat many diseases of the heart such as anger, hatred, jealousy, pride love for the money, love for the world etc.

It is agreed that if a person performs dhikr loudly with the intention that it is Fardh, Wajib or Sunnah, then such an act will be considered Bidah. However, if a person does loud dhikr with the intention that it is a spiritual remedy for the sicknesses of the heart, then there is no harm in performing such dhikr performed in a particular way and with a prescribed amount as that is merely a means to attain tazkiyyah similar to learning the Arabic language and the different subjects to educate oneself on Shariah.

Learning Arabic has its roots in educating oneself in Shariah. Likewise, the different forms of zikr have its roots and origin in tazkiyyah. Just as Arabic is a ladder to learning Shariah, the different forms of zikr are also a ladder to tazkiyyah. It is however important to confine the different means of taleem and tazkiyyah to its position and not regard them to be the actual purpose or to be Sunnah or compulsory in Shariah. If one regards the means to be compulsory in Shariah, it will now be an act of bidah. Hereunder are at least three relevant fatwaas from our Aslaaf (pious predecessors).

1. Allamah Tahtawi Rahmatullahi Alahi, a very reliable Hanafi jurist states in Hashiyah At-Tahtaawi Ala Maraaqi Al-Falah with the reference of Allamah She'raani:

ونص الشعراي في ذكر الذاكر للمذكور والشاكر للمشكور ما لفظه وأجمع العلماء سلفا وخلفا على استحباب ذكر الله تعالى جماعة في المساجد وغيرها من غير تكبير إلا أن يشوش جهرهم بالذكر على نائم أو مصل أو قارئ قرآن كما هو مقرر في كتب الفقه (حاشية الطحطاوي على مراقي الفلاح شرح نور الإيضاح، ص813، دار الكتب العلمية)

Translation: “Allamah She’raani Rahmatullahi Alahi states in his book *Zikr Az-Zaakir Lil Mazkooor Wa As-Shakir Lil Mashkooor*, that the former and the latter Ulama have unanimously permitted doing zikr in a gathering in a Masjid as well as anywhere else other than the Masjid without prohibiting them except that if their loud zikr cause disturbance to a sleeping person or to a person performing Salah or to the one reciting Quran as this has been established in the books of Fiqh.” (Hashiyah At-Tahtaawi Ala Maraaqi Al-Falah, Pg.318, Dar Al-Kutub Al-Ilmiyyah)

2. Hadhrat Moulana Ashraf Ali Thanvi Rahmatullahi Alaih states in *Imdaadul Fatawa*:

...وفي تفسير الاحمدي في بحث الجهر و الاخفاء وهذا بحث مختلف فيه بين الانام في زماننا ولا طائل تحته اذا المقصود بكل الوصول الي الله باي طريق كان-
پس ثابت ہوا کہ جہر ہر طور سے جائز ہے، کسی کو کسی طور سے منع نہ کریں، یہی ارجح و اوضح ہے، بلکہ اگر عدم مشروعیت کو بھی ترجیح دی جاوے تو تب بھی عوام کو منع نہ کریں، کہ اسی بھانہ سے کچھ خیر کر گزرتے ہیں، چنانچہ خود مانعین نے اس امر کی تصریح کر دی۔ (امداد الفتاوی، ج 5 ص 961، مکتبہ دار العلوم کراتھی)

Translation: “...It has been mentioned in *Tafseer-e-Ahmadi* under the discussion of audible and inaudible. There is a difference of opinion amongst the Ulama regarding this discussion in our time. It does not matter beyond that as the purpose is to reach Allah in any way. This proves the fact that performing loud zikr is permissible in every way. No person shall be prohibited in any way. And this opinion is the most authentic and preferred one. In fact, even if the opinion which prohibits (performing loud zikr) is given preference to, the laymen should not be prohibited from performing loud zikr. With this, the laymen will accomplish some rewards. Hence, the ones prohibiting (from performing loud zikr) themselves have stated this.” (*Imdaad Al-Fataawa*, Vol.5 Pg.169, Maktabah Darul Uloom Karachi)

3. Hadhrat Mufti Mahmood Al-Hasan Al-Gangohi Rahmatullahi Alahi states in Fatawa Mahmoodiyyah:

جو علمائے احناف ذکر دواز دہ تسبیح وغیرہ کو بالجہر فرماتے ہیں وہ درحقیقت علاج ہے کہ اس سے قلب پر ضرب لگتی ہے اور حرارت پیدا ہوتی ہے جو کہ اس راہ میں معین ہے..... - (فتاویٰ محمودیہ، ج4 ص434، إدارة القرآن)

Translation: “Those Hanafi scholars who permit performing zikr audibly are in fact permitting it as a remedy from which the heart is rejuvenated. This facilitates traversing this path of tazkiyyah.”

(صحيح البخاري، ج8 ص 78، دار طوق النجاة)
(haiaN-nA quaT raD .78.gP 8.loV .irahkuB-lA hihaS)

سنن الترمذی، ج 5 ص 235، شركة مكتبة

(habatkaM utakrihS ,235.gP 5.loV ,ihdimriT-tA nanuS)

مراجعة المفاتيح شرح مشكاة المصابيح، ج4 ص3551، دار الفكر)

(rkiF-1A raD ,3551.gP 4.loV ,heebasaM-1A takhsiM harahS heetafaM-1A taagriM)

قال النووي: البدعة كل شيء عمل على غير مثال سبق، وفي الشرع إحداث ما لم يكن في عهد رسول الله - صلى الله عليه وسلم - وقوله: «كل بدعة ضلالة» عامٌ ومخصوص. قال الشيخ عَمُّ الدِّين بن عبد السلام في آخر كتاب «القواعد»: «البدعة إما واجبة كتكلم النحوي لفتح كلام الله وترويضه وتكثيرون أصول الفقه وأحكامه في الجرح والتشديد، وإما حُرْمَةٌ كمدح البدعة والمرتبة والمنسبة، والأمر على ما هو عليه من البدعة الواجبة لأن حفظ الشريعة من هذه البدع عَرَضٌ كقراءة، وإما مَنَعٌ أو إفساد للدين كإحداث الخمر والفساد، والبدع إما في الصُّلُوح الأولى، والتكاريح أي في الجائزات العامة (مقالة المناقب ج 3 ص 322)، وإما في الفكر وأحسن هذه هي مُعَدِّدٌ، وكلُّ الأمور مُخْتَلَفَةٌ، وكلُّ بدعة بدعة وكل بدعة ضلالة، وكل ضلالة في النار (رسالة السفايح ج 1 ص 881). مكتب المطبوعات الإسلامية

(hayyimalsI-lA ta'oobtaM-lA habatkaM ,881.gP 3.loV ,iasaN-nA nannuS)

جامع العلوم والحكم، ج2 ص 721، مؤسسة الرسالة)

وقيل الجهر أفضل لأحاديث كثيرة منها ما رواه ابن الزبير كان رسول الله صلى الله عليه وسلم إذا سلم من صلاته قال بوضوءه لا على لا إله إلا الله وحده لا شريك له ومتقدم وقد كان صلى الله عليه وسلم إذا سلم من صلاته قال بوضوءه لا على لا إله إلا الله وحده لا شريك له وتقدم وقد كان صلى الله عليه وسلم يأمر من بقرا القرآن في المسجد أن يسبح قرآنه وإن عمر يأمر من بقرا آية أو على أصحابه وهم يستمعون ولأنه أكثر عملا وأبلغ في التدبر ونفعه متعد لإيقاظ قلوب الغافلين وجمع بين المحاسن الواردة بأن ذلك يختلف يصعب الأشخاص فهمت خاف الفقيه ما تأذى به أحد من الأسرار أفضل ومتنى فقد ذكر ابن الجهر أفضل قال في المساجد الفتاوى لا يمنع من الجهر بالذكر في المساجد احترازا عن الدخول تحت قوله تعالى: (وَمَنْ أَظْلَمُ مِمَّنْ مَتَعَ مَسَاجِدَ اللَّهِ أَنْ يُذَكَّرَ فِيهَا أَشْهُمُ) [البقرة: 411] كذا في البرازية ونصوص الشعراني في ذكر الذكر المذكور والشكر للمذكور ما لفظه وأجمع العلماء سلفا وخلفا على استحباب ذكر الله تعالى جماعة في المساجد وغيرها من غير تكبر إلا أن يشوش جهرهم بالذكر على نائم أو يصل أو قارئ قرآن كما هو مقرر في كتب الفقه (حاشية الخططاوي على مراقي الفلاح شرح من نكت الإيضاح، ص 813، دار الكتب العلمية)

SURNAME FOR ADOPTED CHILD

Q: We are in the process of adopting a child and would like some advice about the name. the child father is not known and neither is his mother- he was placed in a “baby box” and left in front of the hospital. What do you advise to do in this situation? We will tell the child that he is not ours biologically-but when it comes to her name- it seems cruel to not allow her to use our name. What do you suggest? Surely Islam is not so cruel that it would forbid this adoption. This is a child who has no chance in life unless he is taken in by a family.

A: You are correct in saying that Islam is not cruel towards orphans. The Prophet went to the extent of saying,

كَافِلُ الْيَتِيمِ لَهُ أَوْ لِغَيْرِهِ أَنَا وَهُوَ كَهَاتَيْنِ فِي الْجَنَّةِ (الصحيح لمسلم ج-٨ ص-١٢٢، دار المنهاج)

“The one who takes care of an orphan, whether the orphan is his relative or not, and I will be in Jannah like these two (indicating towards the proximity between two fingers).” (Al Sahih li Muslim vol.8 pg.221, Dar Al Minhaj)

As you suggested, you should tell the orphan that you are not his/her biological parents. You may also allow the child to use your surname. However, it should be borne in mind that at no point should the orphan’s lineage be attributed to the adoptive parents . The adopted child will not inherit from the adoptive parents; he may receive bequests. The rules of Hijab will also be observed between the adoptive parents’ biological children and the adopted child.

RULINGS PERTAINING TO A HYPOCRITE

Q: Can a Muslim be a hypocrite? If he meets the conditions which are mentioned in Hadith of signs of hypocrite, will he be a hypocrite then? And he will be among the hypocrites on the day of Judgement? If a person commits sins and he keeps on making Tawbah but people think that he is a good person but he is not that much. Does it mean he is a hypocrite? Can a hypocrite make Tawbah? Will he be forgiven? If a person worships and loves Allah but sometimes he prefers his Nafs. Is this very attitude is called hypocrisy? I heard in a lecture that in this time only Muslims and Kafir are present (with many sects etc.). Hypocrites were in the time of Prophet Muhammad (peace be upon him). Hypocrites that are mentioned in Qur'an are not present in this time.

A: The Hadith in reference to your question is as follow:

آية المنافق ثلاث: إذا حدث كذب، وإذا وعد أخلف، وإذا أؤتمن خان

Translation: The signs of the hypocrite are three: When he speaks, he lies; when he promises, he does not fulfil it; and when he is entrusted with something, he is treacherous .

أربع من كن فيه كان منافقا خالصا ، ومن كانت فيه خصلة منهن كانت فيه خصلة من النفاق حتى يدعها : إذا أؤتمن خان، وإذا حدث كذب ، وإذا عاهد غدر ، وإذا خاصم فجر

Translation: There are four characteristics, whoever possesses them all is a pure hypocrite, and whoever possesses one of them has one of the characteristics of hypocrisy, until he abandons it: when he is entrusted, he betrays; when he speaks, he lies; when he makes a covenant, he proves treacherous; and when he disputes, he resorts to

obscene behaviour .Hypocrisy, in general, means the disparity between the inward thoughts and the outward appearance; the believer by heart should ideally illustrate his faith with his speech, deed and intention .

1. Hypocrisy or Nifaq can be divided into two categories :

- Hypocrisy in Aqidah (belief) – is when a person reveals himself to be a believer but his heart is void of faith
- Hypocrisy in Amal (actions) – is when a person has faith in his heart but he does not fulfil the requirement of faith in complete abstinence from sins.

A real hypocrite is he who claims to have Imaan but in reality does not have any Imaan in his heart. These were the Munafiqin at the time of Prophet Muhammad (peace be upon him) who were exposed by Allah to the Prophet (peace be upon him). If a person commits all the wrongdoings listed in the prophetic narration but simultaneously cherishes true Imaan in his heart, he will not be classified as a real Munafiq and he will not be amongst the hypocrites on the day of Judgement. However, such a person will be said to have traits of a hypocrite and thus weak in his faith.

2. If a person commits sins and is consistent in his repentance, he will not be regarded as a hypocrite, even if people assume him to be really good and when in reality he is not. Prophet Muhammad (peace be upon him) said:

ما أصر من استغفر وإن عاد في اليوم سبعين مرة

Translation: He who seeks forgiveness is not regarded a persistent sinner, even if he returns to his sin seventy times a day.

However, neither should a person do a virtuous action to show

others and not sincerely for the pleasure of Allah nor should anyone forsake a good deed for a doubt of appearing to be a hypocrite . Verily good reputation amongst the people and the ability to repent is from Allah. The person should ideally cherish this opportunity and exhort himself in the obedience of Allah and endeavour to abandon the detestable characteristics of hypocrisy.

3. The Hadith does not denote that a person who has these qualities must be a hypocrite but that a true believer should assess himself and try to abstain from such practices since these qualities are not befitting a true believer . Moreover, Allah is all-Compassionate and will forgive and accept the sincere repentance of even a hypocrite. Allah Ta'ala says:

إن الله لا يغفر أن يشرك به ويغفر ما دون ذلك لمن يشاء

Translation: Verily Allah does not forgive that partners are associated with Him but He forgives anything else to whom He wishes .
Prophet Muhammad (peace be upon him said:

التائب من الذنب كمن لا ذنب له

Translation: He who [sincerely] repents from sin is like him who has committed no sin .

4. The fact that a person may practice on his desires and forgoes the commands of Allah Ta'ala or His Prophet (peace be upon him) does not render a person a hypocrite. However, this attitude may be termed as weakness in faith. As humans we are weak and we may err and commit wrongdoings.

Most importantly, Allah describes the true believers as:

والذين اذا فعلوا فاحشة او ظلموا انفسهم ذكروا الله فاستغفروا لذنوبهم، ومن يغفر الذنوب الا الله ، ولم يصروا على ما فعلوا وهم يعلمون . اولائك جزاؤهم مغفرة من ربهم وجنت تجري من تحتها الانهر خلدین فيها، ونعم اجر العملین

Translation: And [the pious are] those who, when they commit an immoral act or wrong themselves, remember Allah and seek forgiveness of their sins – and who forgives sins except Allah? And those who do not purposely become stubborn regarding what they did. For such the reward is forgiveness from their Lord, and Gardens beneath which rivers flow – abiding in it forever; what an excellent reward for the performers of good deeds .

5. At the time of Prophet Muhammad (peace be upon him), the people were either pure believers, open disbelievers or hypocrites who could only be distinguished and known through revelation from Allah to Prophet Muhammad (peace be upon him). With the demise of Prophet Muhammad (peace be upon him), so has the revelation from the heavens has seized to descend. Consequently, as humans, we are unaware of the beliefs entertained by each other in the hearts. We are obliged to deal according to that which is apparent. Hence, either a person will reveal himself to be a Muslim, thus we will call him and treat him as such, whether he is true in his claim or not; or he will confess himself to be a disbeliever and accordingly he will be treated.

Hypocrites that are mentioned in the Qur'an may well be present in the current era; however, since there is no Wahy and we do not possess the ability to detect the hearts others, we are unable to label a person hypocrite.

EATING IN A HARAM RESTAURANT

Q: My boss, who is a Muslim had invited his staff to a restaurant for year-end supper. I did not attend because I called the restaurant and asked if they are halaal and they said no, the menu had meals which had wine in them and they served alcohol. My friend who is Muslim had attended this supper stating that we can eat the veg platter and seafood dishes. I sill disagreed. My boss made me work till 17h00 PM and excised all the other staff to go home at 15h00 PM that Friday because they were attending the supper, he game a long lecture saying I must not be so rivd, what if I was living in the USA. My friend and I has a disagreement and now we this has affected our friendship. Please advise if we are allowed to eat at these restaurants. Quote hadiths if you can so I can show them why I stand so strongly against this.

A: Your attitude of not accepting the dawah was correct. The issue is not only on eating vegetarian and seafood. There is haram served in the restaurant and there is every possibility of contamination. What guarantee does one have that the utensils used to cook the vegetarian and seafood platters were not used for other haram food? What guarantee does one have that the chefs preparing the food did not touch the vegetarian and seafood platters after touching haram meat with possible remnants of haram on their hands. Eating vegetarian and seafood platters from restaurants offering haram food does not guarantee non-haram dishes being halal.

As Muslims, we experience precaution in consuming halal. This is emphasised in the Quran and Hadith. Consider the following:

يا أيها الذين آمنوا كلوا من طيبات ما رزقناكم

Translation: O you who Imaan! Eat from the pure things which We have provided for you. [2:172]

يا أيها الرسل كلوا من الطيبات واعملوا صالحا، إني بما تعملون عليم

Translation: (Allah Ta'ala addressed the Ambiyaa Alaihimus Salaam saying,) "O you Rasool! Eat from the pure things and do good acts. Verily I am aware of what you do. (Although addressed directly to the Ambiyaa Alaihimus Salaam, this command applies to the followers of the Ambiyaa Alaihimus Salaam as well.) [23:51]

Rasulullah (Sallallahu Alaihi Wa Sallam) is reported to have mentioned in a Hadith: "Verily Allah is pure and He accepts only what is pure and indeed Allah has given those orders to the believers, which he has given to the Messengers"...

Ignore and overlook the comments of your boss. The lecture of your boss has no merit. If he goes to U.S.A, he will be surprised to observe the taqwa of Allah conscious Muslims there.

وحدثني أبو كريب محمد بن العلاء، حدثنا أبو أسامة، حدثنا فضيل بن مرزوق، حدثني عدي بن ثابت، عن أبي حازم، عن أبي هريرة، قال: قال رسول الله صلى الله عليه وسلم: "أيها الناس، إن الله طيب لا يقبل إلا طيبا، وإن الله أمر المؤمنين بما أمر به المرسلين، فقال: (يا أيها الرسل كلوا من الطيبات واعملوا صالحا، إني بما تعملون عليم) وقال: (يا أيها الذين آمنوا كلوا من طيبات ما رزقناكم) ثم ذكر الرجل يطيل السفر أشعث أغبر، ممد يديه إلى السماء، يا رب، يا رب، ومطعمه حرام، ومشربه حرام، وملبسه حرام، وغذي بالحرام، فأنى يستجاب لذلك؟ [مسلم . رقم الحديث 5101]

WHOM SHOULD BE APPOINTED AS THE IMAM?

Q: I wanted to request an official letter from you to the committee of our local masjid based on the following.

1. Imam Lies about trimming beard. Many have seen after his umrah trip his beard was mashallah very good then suddenly became like a goatie.
2. The imam initially said he was Hanafi as most of the musallees are hanafi now he says he is Jamhur.
3. Imam has recently been exposed to be having extra marital connections with ghair mehram woman (Proof is photo which was used in qadhi court to get his wife talaq)
4. We have been instructed to not ask imam any maslas. And there are more capable people in the area who could be our imam and could help the musallees by answering their maslas. (This imam has done some 2-3 year course... apparently that makes them an alim)
5. The Imam believes (as per his answer when questioned by one of the brothers) that doing dua after Salah is biddat but does it just to secure his job. (1. His belief of it being biddat--- 2. After thinking something is wrong and still doing just so his wage is secure)
6. Many musallees are not complaining about the Islamic issues in the mosque and many have requested that at minimum the religious committee have some regular musallees and some proper alims in there. And that musallees be involved in decisions on the masjid. (Committee is basically ruled by a few influential people from which

1 or 2 salah by less than a handful of them is actually prayed in this masjid.

We need reliable sources to tell them they are very political people so we want to make sure our facts are approved by Muftis like yourselves. And a letter will help greatly in saving this masjid from being run by politicians and businessmen who have taken the masjid to be a worldly asset rather than a road to jannah.

A : You request a fatwa for the Committee of the Parklands Mosque about the Imam in reference and his conduct.

It is possible the Committee members are already aware of all the issues you have raised. We do not see how our fatwa will make a difference. Furthermore, since you named the Masjid, it is irresponsible of us to issue a fatwa based on unilateral facts.

However, in order to assist the Committee in understanding the qualities of an Ideal Imam, we present the following-

1) The position of an Imam is a sacred one that brings with it great responsibilities. Rasulullah Sallallahu Alahi Wa Sallam used to be the Imam of the Sahabah in his lifetime. Before his demise, he instructed Hadhrat Abu Bakr Siddiq Radiallahu Anhu to lead the Salah. It is clear from this that the Imam is the deputy of Rasulullah Sallallahu Alahi Wa Sallam and the best and ideal person, Abu Bakr Siddiq Radiallahu was to be chosen as an Imam. The best person chosen as an Imam is also understood from the following Hadith,

يَوْمُ الْقَوْمِ أَفْرُوهُمْ لِكِتَابِ اللَّهِ، وَأَقْدَمَهُمْ قِرَاءَةً، فَإِنْ كَانَتْ قِرَاءَتُهُمْ سَوَاءً، فَلْيُؤَمِّمَهُمْ أَقْدَمُهُمْ هِجْرَةً، فَإِنْ كَانُوا فِي
الْهَجْرَةِ سَوَاءً، فَلْيُؤَمِّمَهُمْ أَكْبَرُهُمْ سُنًّا

The one who is most versed in The Quran should act as Imam for the

people, but If they are equally versed in reciting it, then the one who has most knowledge regarding Sunnah if they are equal regarding the Sunnah, then the earliest one to emigrate; if they emigrated at the same time, then the oldest one in age.(Muslim)

An Imam is the means between Allah and the Musallies. The validity of the peoples Salah rest upon him. Therefore, Taqwa and Allah consciousness of the Imam is vital in fulfilling the role of the Imam.

The Imam should have the following qualifications and characteristics-

- 1) He must be well learned especially in issues pertaining to Imaamat and Salaah.
- 2) He must have mastered Tajweed rules to facilitate correct recitation of qiraat in Salaah.
- 3) He should adhere to the Sunnah in appearance and conduct.
- 4) He must be a person with Taqwa (Allah consciousness).

He should not-

- 1) Engage in Haram; lies, extra marital affairs, Haram dealings.
- 2) Trim or cut his beard beyond one fist or do anything contrary to Shari'ah.
- 3) He should not freely choose any ruling of any Imam as every person is prone to follow his nafs and desires.

The Trustees are entrusted with the responsibility of running the

affairs of the Musjid. Therefore all issues of the Musjid are a sacred task and an Amanah for which they will be responsible on the Day of Qiyamah.

If the correct and ideal Imam is appointed, the Trustees will be greatly rewarded by Allah Ta'ala for their efforts. If the wrong person is appointed and the trustees are aware of violations of Shari'ah, they will be sinful. Accordingly if the Imam is guilty of sinful acts and sincere people feel compromised on performing Salah behind him, then the trustees should replace him with a suitable Imam.

DONATING BREAST MILK

Q: My sister has breast milk that is frozen and didn't use. In Islam is she allowed to donate it to the milk bank who uses it to feed other babies that's born ill and formula doesn't agree with? Or should she just discard of it?

A: The system of breastfeeding in Shari'ah constitutes the establishment of foster relationships. As a result, the following implications arise:

- It becomes impermissible for the foster parents to marry the child, its ascendants (usūl) and descendants (furū').
- It becomes impermissible for the child to marry any of the foster parents, their biological and foster ascendants (usūl) and descendants (furū').
- It becomes impermissible for all those children who have been breastfed by the same woman to marry each other.
- As a general principle, foster relations prohibit the marriage

of all such people with whom nikāh in Shari'ah is not permissible due to biological relations.

In the case of donating milk to a milk bank, it is important to understand the operations of a milk bank. Majority of the milk banks pool whatever milk they receive and redistribute it to hospitals and individuals. The system of pooling the milk results in the fusion of the milk particles of one woman's milk with the rest of the milk. Resultantly, feeding a child from any portion of such milk will constitute the establishment of a foster relationship between the child and all those women whose milk has been pooled together. This will in turn create complications relating to the permissibility of marriage with any individual who may have been fed such milk.

Hence, it will highly inappropriate to give the milk to a milk bank. She should dispose of the milk in a dignified manner, preferably by burying it in the ground

WHO ARE THE “GHURABAA” MENTIONED IN THE HADITH?

Q:What is the meaning of hadith that Islam began as strange and will return to being strange? Also who are the strangers mentioned in hadith?

A:There are two issues of clarification here:
The general connotation of the Hadith
And the interpretation of the word “strangers” in Hadith
1. The Hadith mentioned in reference is as follows:

قال رسول الله صلى الله عليه وسلم: بدأ الإسلام غريبا وسيعود كما بدأ غريبا فطوبى للغرباء

Translation: the Messenger of Allah (peace and salutations be upon him said, “Islam began as something strange and will return as something strange as it began, so give glad tidings to the strangers”. This narration is authentic and found with slight variations in wording on the authority of Abdullah ibn Mas`ud, Abu Hurairah and Ibn Umar (may Allah be pleased with them all) as recorded in Sahih Muslim (262) ; Sunan at-Tirmidhi (2629) and Musnad al-Imam Ahmad (3814 & 9114) .

The narration of Sahih Muslim on the authority of Ibn Umar (may Allah be pleased with him) includes:

وهو يأرز بين المسجدين كما تأرز الحية في جحرها

Translation: It (Islam) will recede between the two mosques just as the serpent crawls back into its hole.

The narration of Sahih Muslim on the authority of Abu Hurairah (may Allah be pleased with him) contains:

إن الإيمان ليأرز إلى المدينة كما تأرز الحية إلى جحرها

Translation: Verily the Iman will recede to Madinah just as the serpent crawls back into its hole.

1. Sheikh Shabbir Ahmad al-Uthmani (may Allah have mercy on him) in Fat`h al-Mulhim bi Sharh Sahih al-Imam Muslim (1: 115) explains:

والظاهر عندي والله أعلم أن هذا وقت خروج الدجال ... فالمراد والله أعلم أن الإسلام يكون موقرا مأمونا من

فتنة المسيح الدجال ورعبه في هذين المسجدين المكرمين

Translation: This narration is referring to the era in which Dajjal (the anti-Christ) will appear ... Islam will be revered and secured from the trial and awe of Dajjal, the anti-Christ, in these two auspicious mosques [of al-Masjid al-Haram in Makkah al-Mukarramah and al-Masjid an-Nabawi in al-Madinah al-Munawwarah]. In explaining this, Allamah Ali bin Sultan Muhammad al-Qari (may Allah have mercy on him) in *Mirqat al-Mafatih Sharh Mishkat al-Masabih* explains:

والمراد أن أهل الإيمان يفرون بإيمانهم إلى المدينة وقاية بها عليه

Translation: The believers will flee to Madinah in order to protect and safeguard their Iman by virtue of it

2. Al-Hafidh Ibn Hajar al-Asqalani , as also asserted by Qadhi Iyadh and Imam an-Nawawi (may Allah have mercy on them all), states:

أي : إنها كما تنتشر من جحرها في طلب ما تعيش به فإذا راعها شيء رجعت إلى جحرها ، كذلك الإيمان انتشر في المدينة ، وكل مؤمن له من نفسه سائق إلى المدينة لمحبتة في النبي - صلى الله عليه وسلم - ، فيشمل ذلك جميع الأزمنة لأنه في زمن النبي - صلى الله عليه وسلم - للتعلم منه ، وفي زمن الصحابة والتابعين وتابعيهم للاقتداء بهديهم ، ومن بعد ذلك لزيارة قبره - صلى الله عليه وسلم - والصلاة في مسجده والتبرك بمشاهدة آثاره وأثار أصحابه .

Translation: the serpent disperses from its hole to seek sustenance and when is it frightened it returns to seek refuge in its hole. Similarly, Iman will spread from Madinah and every believer has in himself a desire or need driving him back to Madinah due to the love of Prophet Muhammad (peace and salutations be upon him). This encompasses all times. This is because the people were driven to Madinah at the time of Prophet in order to learn from him; in the times of the companions and their followers, to follow their guidance; and in later times, to visit the grave of Prophet (peace and salutations be

upon him), to observe salah in his mosque and to gain blessings by witnessing his monuments and the monuments of his companions.

3. Al-Qadhi Iyadh (may Allah have mercy on him) states:

وظاهر الحديث العموم وأن الإسلام بدأ في آحاد من الناس وقلة ثم انتشر وظهر ثم سيلحقه النقص والإخلال
حتى لا يبقى إلا في آحاد وقلة كما بدأ

Translation: The outward of the Hadith is inclusiveness. Verily Islam began among individuals and very few people and it then gradually spread and arose. However, thereafter it will be afflicted with paucity and disruption to the extent that once again it will remain only in individuals and few people just as it began.

The explanation of the word “strangers” is expounded by other narrations themselves:

The narrations in Sunan Ibn Majah (3980) and Musnad al-Imam Ahmad (3814) include:

قيل: ومن الغرباء؟ قال: النزاع من القبائل

Translation: He was asked, “Who are the strangers?” He (peace be upon him) replied: those who completely break away and withdraw themselves from their own tribes.

Imam al-Harawi (may Allah have mercy on him) states:

أراد بذلك المهاجرين الذين هجروا أوطانهم إلى الله تعالى

Translation: It refers to those migrants who leave their hometowns for the sake of Allah Ta`ala

Al-Imam Ahmad (may Allah have mercy on him) records in his Musnad (6692 & 7125) on the authority of Abd Allah bin Amr al-As (may Allah be pleased with him):

قال رسول الله ذات يوم ونحن عنده طوبى للغرباء فقليل من الغرباء يا رسول الله قال أناس صالحون في أناس
سوء كثير من يعصيهم أكثر ممن يطيعهم

Translation: Allah`s Messenger (peace and salutations be upon him) said one day while we were by him, “Blessed are the strangers.” He was then asked: “Who are the strangers, Oh Allah`s Messenger?” He replied: “They are righteous people among many evil people who disobey them more than they obey them.”

Similary, Imam at-Tirmidhi (may Allah have mercy on him) includes a reliable narration in his Sunan (2630):

أن رسول الله صلى الله عليه وسلم قال إن الدين ليأرز إلى الحجاز كما تأرز الحية إلى جحرها وليعقلن الدين
من الحجاز معقل الأروية من رأس الجبل إن الدين بدأ غريبا ويرجع غريبا فطوبى للغرباء الذين يصلحون ما
أفسد الناس من بعدي من سنتي

Translation: Allah`s Messenger (peace and salutations be upon him) said: “The religion will recede to the Hijaz like the serpent recedes into its hole. The religion will cling to the Hijaz like the mountain goat clings to the mountaintop. The religion began strange, and it will become strange again just as it was, so blessed are the strangers who restore what the people corrupt of my Sunnah.”

As the era of Prophet Muhammad and the companions grows longer, evil will increase and righteousness will decrease.

The “strangers” mentioned in the Hadith refers to those righteous individuals who forsake their luxuries, resist the impediments of society discouraging them from practicing Islam, adhere to the teachings of Allah and His Messenger (peace be upon him), and revive the Sunnah while living where evil is rife, the teachings of Islam are assumed to be foreign and abandoned, and there are very few people who agree with them, assist them and revive Islam.

[Sahih Muslim bi Sharh an-Nawawi, 1: 453-4, Dar ibn Rajab; Fat`h al-Mulhim bi Sharh Sahih al-Imam Muslim, 1: 115, Dar al-Qalam, Damascus) (Kitab al-Iman)]

Also in [Mirqat al-Mafatih Sharh Mishkat al-Masabih, 1: 243, Dar al-Fikr Beirut]

[Sahih Muslim bi Sharh an-Nawawi, 1: 454; Fat`h al-Mulhim bi Sharh Sahih al-Imam Muslim, 1: 115]

[Sahih Muslim bi Sharh an-Nawawi, 1: 454; Fat`h al-Mulhim bi Sharh Sahih al-Imam Muslim, 1: 116]

[1: 243, Dar al-Fikr, Beirut]

[Fat`h al Bari Sharh Sahih al-Bukhari In Fat`h al-Mulhim bi Sharh Sahih al-Imam Muslim, 1: 116]

[Sahih Muslim bi Sharh an-Nawawi, 1: 455]

[Fat`h al-Mulhim bi Sharh Sahih al-Imam Muslim, 1: 115; Sahih Muslim bi Sharh an-Nawawi, 1: 455]

[Fat`h al-Mulhim bi Sharh Sahih al-Imam Muslim, 1: 115; Sahih Muslim bi Sharh an-Nawawi, 1: 455]

MY FAMILY IS PUTTING PRESSURE ON ME!

Q: My cousin is getting married soon and 100 people of my family from Europe and Africa have come to stay in our house for the wedding. I am only going to attend the nikkah in the masjid. The wedding ceremony and the walima will have intermingling of opposite genders and photography. So i'm not going to attend those functions and i'm the only one in the house who is not attending them. My parents are not against me they support my decision but they will attend the ceremonies and won't defend me in my decision. The other relatives are criticizing me on my decision. Here are some of their points - Why do you go to the market for shopping then, why do you go to campus as there are mixed genders there too?

A scholar in their mosque is from Al-Azhar university of Egypt and has declared that intermingling of sexes is allowed because there was no separation between men and women. You are going to hurt us and your cousin and his family and your grandparents if you don't come and this is against akhlaq. If this is so much sin for you then just attend the wedding and then make taubah. Please help me regarding these points and give me answers for all of these points.

A: The most difficult choices that we are faced with in life involve those that make us choose between our family and our deen. It is at these times it is important for one to exercise caution and deal with one's family in a calm and dignified manner.

Nowadays, traditional marriages prevalent amongst the South Asian communities involve many acts contrary to the dictates of Shari'ah and the Sunnah of our beloved Nabi (sallallahu alaihi wa sallam) such as the intermingling of men and women, unislamic customs and traditions, music, photography, etc.

As such, it is best that you stick to your original judgment and avoid attending such gatherings. In reference to the points brought up by your relatives, it is first important to understand that you are not liable to give an explanation to each of the arguments posed by your relatives, especially when your parents support your decision. In such situations, you should simply excuse yourself from attending the gathering and kindly inform your family members about your stance concerning this matter without delving into unnecessary details. Nevertheless, for the sake of clarity we shall expound on these issues and address them as follows:

(1) Allah Ta'ālā has given us a perfect religion that takes into account the needs of humanity as a whole. Those who misunderstood this concept would taunt the Muslims and ridicule them. Allah Ta'ālā himself mentions such people in the Quran who used to taunt the Holy Prophet (sallallahu alaihi wa sallam) and say:

مَا لِهَذَا الرَّسُولِ يَأْكُلُ الطَّعَامَ وَيَمْشِي فِي الْأَسْوَاقِ

What sort of messenger is this who eats food and walks in the markets? [Al-Quran, 11:7]

Similarly, there is (and always was) a need in society for medical doctors who can tend to the sick and ill, especially at times when there is an outburst of certain diseases within individual communities. Therefore, Shari'ah has allowed one to pursue the field of medicine and offer one's service at a hospital as per the need of the society.

(2) Interaction with ghairmahrams and mixed gatherings are not only contrary to the teachings of the Quran and Sunnah, but they also corrode the fine natural values Islam attempts to inculcate within us. As a result, these gatherings also become a reason for invoking

the anger of Allah Ta'ālā. Allah Ta'ālā says in the Holy Quran:

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَى لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ. وَقُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ (سورة النور، ١٣)

Say to the believing men that they must lower their gazes and guard their private parts; it is more decent for them. Surely Allah is All-Aware of what they do. And say to the believing women that they must lower their gazes and guard their private parts, and must not expose their adornment. [Al-Quran, 24:30-31]

The Holy Prophet (sallallahu alaihi wa sallam) said:

كُتِبَ عَلَى ابْنِ آدَمَ نَصِيْبُهُ مِنَ الزَّانَا، مُدْرِكُ ذَلِكَ لَا مَحَالَةَ، فَالْعَيْنَانِ زَانَاهُمَا النَّظَرُ، وَالْأَذْنَانِ زَانَاهُمَا السَّمْعُ، وَاللِّسَانُ زَانَاهُ الْكَلَامُ، وَالْيَدُ زَانَاهَا الْبَطْشُ، وَالرِّجْلُ زَانَاهَا الْخَطَا، وَالْقَلْبُ يَهْوَى وَيَتَمَنَّى، وَيُصَدِّقُ ذَلِكَ الْفَرْجُ وَيَكْذِبُهُ

Allah has written for the children of Adan their share of zina which he commits inevitably. The zina of the eyes is the sight (to gaze at a forbidden thing), the zina of the ears is to hear, the zina of the tongue is the talk, the zina of the hands is to touch (that which is forbidden), the zina of the feet is to take steps (towards that which is forbidden) and the heart wishes and desires and the private parts testify all this or deny it. [Sahīh Muslim, 2657, Book of al-Qadr (Fate)]

From the above texts, it should be quite apparent that Shari'ah has emphasized that one should lower his gaze and try one's best to protect his or her own chastity. In occasions such as these, it is obvious to all those who attend that such commands of Shari'ah are not take into consideration and the laws of Allah Ta'ālā are thrown aside.

A traditional shaadi and an Islamic lecture bear no similarity at all, especially in today's day and age. Furthermore, a lecture is limited to

simply hearing a speech and requires no interaction between men and women. On the other hand, aside from intermingling with the opposite gender, traditional marriage ceremonies force one to sit in gatherings full of music, idle talk, and rusumaat (customs) that hold no basis in Shari'ah at all.

(3) The Holy Prophet (sallallahu alaihi wa sallam) has said:

لَا طَاعَةَ لِمَخْلُوقٍ فِي مَعْصِيَةِ الْخَالِقِ

There is no obedience to the creation in disobedience to the creator [Mishkah al-Masabih, 3696, Chapter of Imarah and Qadha]

It is illogical for one to please his relatives while displeasing the Creator himself. Akhlaq entails one to be kind and affectionate towards one's relatives and keep good relation with them. This does not mean that one should sacrifice one's Islamic values for the sake of another. The prophets in the past were always shunned by their close relatives because they would give preference to the commands of Allah Ta'ālā over the invitations towards evil from their families.

(4) Allah Ta'ālā narrates the story of Prophet Yusuf (alaihis salam) and describes the rationale his brothers used in their plot to kill Yusuf (alaihis salam) as they said to one another:

اِفْتُلُوا يُوسُفَ أَوْ اطْرَحُوهُ أَرْضًا يَخْلُ لَكُمْ وَجْهُ أَبِيكُمْ وَتَكُونُوا مِنْ بَعْدِهِ قَوْمًا صَالِحِينَ

Kill Yusuf or throw him in some land , so that your father's face may be yours alone, and after that you may become a righteous people. [Al-Quran, 12:9]

This concept of sinning with the intention to repent later is foreign to the teachings of Islam. If one's life is taken while one is engaged in

such an act, can he be guaranteed forgiveness after having the audacity to purposely overstep the boundaries of Allah Ta'ālā? Allah Ta'ālā says in the Holy Quran:

إِنَّمَا التَّوْبَةُ عَلَى اللَّهِ لِلَّذِينَ يَعْمَلُونَ السُّوءَ بِجَهَالَةٍ ثُمَّ يَتُوبُونَ مِنْ قَرِيبٍ فَأُولَٰئِكَ يَتُوبُ اللَّهُ عَلَيْهِمْ وَكَانَ اللَّهُ عَلِيمًا حَكِيمًا وَلَيْسَتِ التَّوْبَةُ لِلَّذِينَ يَعْمَلُونَ السَّيِّئَاتِ حَتَّىٰ إِذَا حَضَرَ أَحَدَهُمُ الْمَوْتُ قَالَ إِنِّي تُبْتُ الْآنَ

The relenting taken by Allah upon Himself is for those who do evil in ignorance then repent shortly there after. So, Allah relents towards them. And Allah is All-Knowing, All-Wise. And the relenting is not for those who do the evil deeds until when the time of death approaches one of them, he says, “Now I repent”... [Al-Quran, 4:7-8]

May Allah Ta'ālā keep you steadfast on your deen and grant you success in this life and the hereafter. Ameen.

Comments from Mufti Ebrahim Desai Saheb (Dāmat barakātuhū):

Your relatives may be fully aware of the various violations of Shari'ah while they seek your participation to support their denial of their wrong. Your persistent and gentle aversion to the wrongs will inculcate respect and honour in their hearts for your taqwā and piety. Your attitude will also serve to make them contemplate and reform their lives. The beauty and dignity emanating through taqwā always rides high.

THE HOORS OF JANNAH

Q:In book by the great Imam Ghazzali: Ihya Uloom Ed-Din. Volume 4, Page-4.430; “According to Prophet Muhammad the Hurs (Houris) of Paradise will be pure women—free of menstruation, urine, stool, cough and children. The Hurs will sing in Paradise on divine purity and praise—we are most beautiful Hurs and we are for the honored husbands. Muhammad also said that an inmate of Paradise will have the sexual strength of 70 men. Muhammad said, “An inmate of Paradise will have 500 Hurs, 4,000 unmarried women and 8,000 widowed women. Each of them will keep embracing him for the duration of his whole worldly life.”

Volume 4, Page-4.428 of the same book: The Prophet Muhammad said once to Jaber: “Shall I not give you the news of the windows of Paradise ? We said: O Messenger of God give us that information. He said: Those are made of emeralds and jewels. Their inner parts will be seen from their outer parts. Therein there will be such enjoyments, amusements and joys as no eye has seen, no ear has heard and no heart has conceived. I said: O Messenger of God, who will be the owners of those windows? He said: Those who spread peace, give food, keep fasts, pray at night when the people remain asleep. We asked: O Messenger of God, who will be able to do that? He said: My people will be able to do that. I am saying it to you. He who meets his brother, salutes him and replies to his salute, spreads peace; and he who gives food to his wife and members of his family to their satisfaction gives food. He, who keeps fast of Ramazan and three days every month, keeps fast as it were for the whole year. He who prays Isha and Fajr in congregation prays as it were the whole night when the people remain asleep. God says: The fine buildings in Eden Paradise.’

The Prophet said regarding its meanings: These places are built of emeralds and jewels and in each building there will be 70 rooms of red colour and in each room 70 sub-rooms of green colour and in each sub-room there will be one throne and over each throne 70 beds of varied colours and on each bed a hoor al-ayn (houris - a girl having wide lovely eyes with intense black irises). There will be 70 dining cloth in each room and 70 kinds of food in each dining cloth. There will be seven girls in each room. Each believer will be given such strength in the morning as he can cohabit with them". the question is if they are authentic or not?

A : **Narration no. 1** - "The Hurs of Paradise will be pure women-free of menstruation, stool, urine, saliva, cough, female-ejaculation and children " This is not a hadith of Prophet Muhammad (peace be upon him) but part of commentary of the Qur'an rendered by Mujahid (may Allah have mercy on him) and recorded by Ibn al-Mubarak in az-Zuhd [243] and Sunan al-Baihaqi in al-Ba`th wa an-Nushur [350].

This statement is authentic and it is supported by various companions of Prophet Muhammad (peace be upon him) and commentators of Qur'an like Abu Saeed al-Khudri, Abdullah ibn Abbas, Abdullah ibn Mas'ud, Ata and Qatadah (may Allah be pleased with them all). [Ithaf al-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 545, Dar al-Fikr]

Narration no.2

"The Hurs will sing in Paradise: we are most beautiful Hurs and we are concealed for the honoured husbands " This Prophetic narration is also recorded by Ibn Abi ad-Dunya in Sifat al-Jannah [249], al-Bayhaqi in al-Ba`th wa an-Nushur [369] and at-Tabrani in al-Awsat [4914].

The narration is acceptable and has also been attributed to Anas (may Allah be pleased with him) . [Ithaf al-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 547, Dar al-Fikr]

Narration no.3

“An inmate of Paradise will be given in a single day the sexual strength of more than 70 men from amongst you ”

This Prophetic saying is recorded by Abu Nu`aym in Ma`rifat as-Sahabah [2: 972-3] and al-Bayhaqi in al-Ba`th wa an-Nushur [3551]. This narration is acceptable[Ithaf as-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 545, Dar al-Fikr] and collaborated by various other reports including a narration recorded by at-Tirmidhi in Sunan at-Tirmidhi [2536] that, “the prophet (peace be upon him) said, “A believer in Paradise will be given the sexual strength of such and such.” He (peace be upon him) was asked, “Will he be able of that?” He (peace be upon him) replied, “He [the inmate of Paradise] will be given the strength of 100 men”.

Narration no.4

“An inmate of Paradise will have 500 Hurs, 4,000 virgins and 8,000 widowed women. He will keep embracing each of them for the duration of his whole worldly life ”

This report is also attributed to Prophet Muhammad (peace be upon him) and recorded by Ibn Abi ad-Dunya in Sifat al-Jannah [266] and by al-Bayhaqi in al-Ba`th wa an-Nushur [364].

Hafidh al-Iraqi states that this narration is weak . [Ithaf al-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 546, Dar al-Fikr]

Narration no.5

It is recorded by Abu Nu`aym in al-Hilyah [2: 356] and al-Bayhaqi in al-Ba`th wa an-Nushur [243] that:

Jabir (may Allah be pleased with him) states, “Allah’s Messenger (peace be upon him) said to us: “Shall I not give you the news of the rooms of Paradise?” He says, “We said: O Messenger of Allah, may our parents be sacrificed for you, Do inform us.” He said, “All the rooms in Paradise are [built] of different kinds of jewels. Their inner parts will be seen from their outer parts and their outer parts will be seen from their inner parts. Therein there will be such enjoyments, amusements and joys as no eye has seen, no ear has heard and no heart has conceived”. I said, “O Messenger of Allah, who will be the owners of those rooms?” He said, “Those who spread peace, give food, continue to fast, pray at night when the people remain asleep.” He says, “We asked, “O Messenger of Allah, who will be able to do that?” He said, “My ummah (nation) will be able to do that. I am saying it to you. He who meets his brother, greets him with salaam and replies to his salaam, spreads peace; and he who gives food to his wife and members of his family to their satisfaction, gives food. He, who keeps fast of Ramadhan and three days of every month, continues to fast. He who prays Isha and Fajr in congregation, prays at night when the people remain asleep .

This narration is also supported by various other chains and thus it is reliable . The author of *Ithaf al-Sadah al-Muttaqin bi Sharh Ihya Ulom ad-Din* [10: 530, Dar al-Fikr] explains:

هذا الحديث وإن كان ضعيفا إلا أنه روي من طرق يقوي بعضها بعضا

Translation: This narration, albeit it is weak, has been narration from other roots, some which strengthen others.

Narration no.6

The Prophet was asked regarding the statement of Allah, “The fine buildings in Eden Paradise.” The Prophet replied, “[These] palaces [are built] of pearls and in each building there will be 70 rooms of

red rubies and in each room 70 sub-rooms of green emeralds and in each sub-room there will be one throne and over each throne 70 beds of varied colours and on each bed a hur al-ayn. There will be 70 table spreads in each room and 70 kinds of food in each table spread. There will be 70 maids in each room. Each believer will be given such strength in the morning as he can cohabit with each of them . This narration is recorded by al-Bayhaqi in al-Ba`th wa an-Nushur [245]. The same narration mentioned by Ibn Abi ad-Dunya in Sifat al-Jannah [177] and al-Bazzar in Musnad al-Bazzar [3563] adds, “And in each room there will be 70 sub-rooms of green emerald, and in each sub-room there will be seventy thrones”.

This narration is claimed to be a fabricated by Allama Suyuti in al-La`ali al-Masnu`ah fi al-Ahadith al-Mawdhu`ah [2: 376] and incorrect by Hafidh al-Iraqi.

Ihya Uloom ad-Din li al-Imam al-Ghazali, 9: 619, Dar al-Minhaj; Ibid, 2: 1930, Dar as-Salam; Ithaf as-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 545, Dar al-Fikr]

Ihya Uloom ad-Din li al-Imam al-Ghazali, 9: 620, Dar al-Minhaj; Ibid, 2: 1926, Dar as-Salam; Ithaf as-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 547, Dar al-Fikr]

وفيه الحسن بن داود بن المنكدر . قال البخاري: يتكلمون فيه وقال ابن عدي: أرجوا أنه لا بأس به. [Ibid, 2: 1930, Dar as-Salam]

قلت ورواه أيضاً من هذا الطريق سمويه في فوائده والحسن بن داود بن محمد بن المنكدر أبو محمد المدني روى عن عبد الرزاق والمجتهد روي له النساء وابن ماجه وقد تكلم في سماعه عن المعتمد مات سنة سبع وأربعين وقال أبو بكر بن أبي شيبة حدثنا شاذان بن سوار عن ابن أبي ذئب عن سمع أنسا يقول إن الحور العين في الجنة ليغنين يقلن نحن الخيرات الحسان خبنا لأزواج كرام

[Ithaf as-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 547, Dar al-Fikr]

Ihya Uloom ad-Din li al-Imam al-Ghazali, 9: 619, Dar al-Minhaj; Ibid, 2: 1930, Dar as-Salam; Ithaf as-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 530, Dar al-Fikr]

[Ihya Uloom ad-Din li al-Imam al-Ghazali, 9: 620, Dar al-Minhaj; Ibid, 2: 1930, Dar as-Salam; Ithaf as-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 546, Dar al-Fikr]

Ibid, 2: 1930, Dar as-Salam; 10: 546, Dar al-Fikr]

[Ihya Uloom ad-Din li al-Imam al-Ghazali, 9: 607-8, Dar al-Minhaj; Ibid, 2: 1926, Dar as-Salam; Ithaf as-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 530, Dar al-Fikr]

قال العراقي رواه أبو نعيم من رواية الحسن عن جابر اه قلت ورويناه في جزء ابن السماك ورواه البيهقي وضعفه ابن عدي لكن أقام له ابن القيم شواهد يعتضد بها وقال صاحب حادي القلوب بعد أن أورده من فوائد ابن السماك هذا الحديث وإن كان ضعيفا إلا أنه روي من طرق يقوي بعضها بعضا

[Ithaf as-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 530, Dar al-Fikr]

سئل رسول الله - صلى الله عليه وسلم - عن قوله عز وجل: (ومساكن طيبة في جنت عدن قال قصور من لؤلؤ في كل قصر سبعون داراً من ياقوتة حمراء في كل دار سبعون بيتاً من زمرد أخضر في كل بيت سرير على كل سرير سبعون فراشاً من كل لون على كل فراش زوجة من الحور العين في كل بيت سبعون مائدة على كل مائدة سبعون لوناً من الطعام في كل بيت سبعون وصيفة ويعطى المؤمن في كل غداة يعني من القوة ما يأتي على ذلك أجمع).

[Ihya Uloom ad-Din li al-Imam al-Ghazali, 9: 608, Dar al-Minhaj; Ibid, 2: 1926, Dar as-Salam; Ithaf as-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 530, Dar al-Fikr]

موضوع: جسر ليس بشي

[al-La'ali al-Masnu'ah fi 'l-Ahādith al-Mawdhū'ah, 2: 376, Dar al-Kutub al-Ilmiyyah]

قال العراقي: رواه أبو الشيخ في العظمة والأجري في كتاب الصحبة من رواية الحسن بن خليفة عن الحسن قال سألت أبا هريرة وعمران بن حصين عن هذه الآية ولا يصح والحسن بن خليفة لم يعرف ابن أبي حاتم والحسن البصري لم يسمع من أبي هريرة على قول الجمهور أهد. قلت: وفي كتاب الأجرى زيادة عما هنا في كل بيت سبعون سريراً وفي كل بيت سبعون وصيفاً ووصيفة.

[Ihya Uloom ad-Din li al-Imam al-Ghazali, 2: 1926, Dar as-Salam; Ithaf as-Sadah al-Muttaqin bi Sharh Ihya Uloom ad-Din, 10: 530, Dar al-Fikr]

THE EXTENSION OF MINA INTO MUZDALIFAH

Q: In the recent past the Saudi authorities have started accommodating hajis in muzdalifah for lack of space at Mina. Under this situation will the hajis fulfil the condition of having stayed at Mina? Also hajis returning from Arafat also spend their nights where the camps have been extended into muzdalifah. Will the obligations of Wuquful of muzdalifah be fulfilled while spending the night in the areas where camps have been extended into muzdalifah?

A: The extension of Mina into Muzdalifah will still be regarded as a part of Muzdalifah and not a part of Mina as these places have been defined and designated from the time of the Prophet (salallahu alayhi wasallam). Therefore, all those who are residing in the extended camps outside of the boundary of Mina will be regarded to have stayed in Muzdalifah, not Mina.

Now that this has been understood, we will summarize the rulings pertaining to each location individually.

Muzdalifah:

It is wājib to spend the time between Fajr and sunrise on the 10th of Dhu 'l-Hijjah in Muzdalifah. The minimum duration necessary to

fulfill this obligation (wujūb) is a single second. In other words, even if a person simply walks into the boundary of Muzdalifah during this time and walks back out, it will suffice in fulfilling one's obligation. It is also sunnah muakkadah to spend the night of the 9th in Muzdalifah. In either case, since the extended portion is a part of Muzdalifah, those who are residing in these tents will neither have to relocate in order to fulfill the obligation of wuqūf in Muzdalifah nor pay any kaffārah (expiation) for staying in these camps.

Mina:

In principle, it is sunnah muakkadah to spend the night of the 8th, 10th, 11th and 12th of Dhu 'l-Hijjah in Mina and Makrūh Tanzīhī to not do so without any valid excuse. The minimum duration necessary to fulfill the sunnah is to spend the majority of each night in Mina. In the enquired case, since the camps on the extended portion do not fall within the boundaries of Mina, those who spend their nights within those camps will not have fulfilled the sunnah of mabīṭ fi 'l-Minā (spending the night in Mina). However, since these people are compelled by the laws of Saudi Arabia to reside in these camps, we can hope that they will be excused from leaving the sunnah of spending the night in Mina.

In any case, since spending the night is sunnah and not wājib, one's Hajj will be fulfilled even if the night is spent outside of the boundaries of Mina and no expiation will be necessary.

حَدَّثَنَا عُمَرُ بْنُ حَفْصٍ بْنُ غِيَاثٍ، حَدَّثَنَا أَبِي، عَنْ جَعْفَرٍ، حَدَّثَنَا أَبِي، عَنْ جَابِرٍ، فِي حَدِيثِهِ ذَلِكَ: أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: قَالَ: «تَحَرَّثْ هَاهُنَا، وَمِنَى كُلُّهَا مَنْحَرٌ، فَأَنْحَرُوا فِي رِجَالِكُمْ، وَوَقِفْتُ هَاهُنَا، وَعَرَفْتُ كُلُّهَا مَوْقِفٌ، وَوَقِفْتُ هَاهُنَا، وَجَمَعْتُ كُلُّهَا مَوْقِفٌ» (صحيح مسلم، ٨١٢١، كتاب الحج)

حَدَّثَنَا أَحْمَدُ بْنُ حَنْبَلٍ، حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، حَدَّثَنَا جَعْفَرٌ، حَدَّثَنَا أَبِي، عَنْ جَابِرٍ، قَالَ: ثُمَّ قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «قَدْ نَحَرْتُ هَا هُنَا وَمِنَى كُلُّهَا مَنْحَرٌ» وَوَقِفَ بِعَرَفَةَ فَقَالَ: «قَدْ وَقِفْتُ هَا هُنَا وَعَرَفْتُ كُلُّهَا مَوْقِفٌ» وَوَقِفَ بِالْمُزْدَلِفَةِ فَقَالَ: «قَدْ وَقِفْتُ هَا هُنَا وَمُزْدَلِفَةُ كُلُّهَا مَوْقِفٌ» (سنن أبي داود، ٧٠٩١، كتاب المناسك)

وَإِنْ اخْتَارَ يُوَفُّوهُ مَوْضِعًا آخَرَ بِالتَّيْعِدِ مِنَ الْإِمَامِ جَازَ بِحَدِيثِ عَطَاءٍ - رَحِمَهُ اللَّهُ تَعَالَى - أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ «عَرَفْتُ كُلُّهَا مَوْقِفٌ، وَفَجَاجَ مَكَّةَ

كُلُّهَا مَنْحَرٌ». وَفِي حَدِيثِ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ عَنْ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ «عَرَفَهُ كُلُّهَا مُؤَقَّتٌ، وَإِذَا تَقَرَّبُوا عَنْ بَطْنِ عُرْتَةِ، وَالْمُزْدَلِفَةَ كُلُّهَا مُؤَقَّتٌ، وَإِذَا تَقَرَّبُوا عَنْ، وَادِي مُحَسَّرٍ، وَفِي وَقُوفِهِ يَدْعُو هَكَذَا» (المبسوط للرخسي، ج ٤، ص ٨١، دار النوادر)

وَلَا يَصِلُ الْمُغْرَبُ حَتَّى يَأْتِيَ الْمُزْدَلِفَةَ لَهَا رُؤْيُ «أَنَّ أَسَامَةَ بْنَ زَيْدٍ - رَضِمَهُ اللَّهُ تَعَالَى - كَانَ زَيْدِيفَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي الطَّرِيقِ مِنَ الْمُزْدَلِفَةِ فَقَالَ: الصَّلَاةُ يَا رَسُولَ اللَّهِ فَقَالَ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ - الصَّلَاةُ أَمَامَكَ، وَمُرَادُهُ مِنْ هَذَا اللَّفْظِ إِمَّا الْوُقُوفُ أَوْ الْمَكَانُ (المبسوط للرخسي، ج ٤، ص ٨١، دار النوادر)

(فصل: في البيوتة بمزدلفة) وهي علي ما في القاموس: معضو بين عرفات ومنى، لأه يتقرب فيها إلى الله تبارك وتعالى، أو لاقتراب الناس إلى منى بعد الإفاضة، أو لمجيء الناس إليها في زلف من الليل، أو لأنها أرض مستوية منكوسة وهذا أقرب، قلت: لكن ما قبله للمقام أنسب...

(حاشية إرشاد الساري إلى مناسك الملا علي القاري، ص ٨٣، مؤسسة الريان)

[قال الحصكفي] (ثُمَّ وَقَفَ) مُزْدَلِفَةَ، وَوَقُفُّهُ مِنْ طُلُوعِ الْفَجْرِ إِلَى طُلُوعِ الشَّمْسِ، وَلَوْ عَارًا كَمَا فِي عَرَفَةَ

[قال ابن عابدين] (قَوْلُهُ ثُمَّ وَقَفَ) هَذَا الْوُقُوفُ وَاجِبٌ عِنْدَنَا لَا سَنَةَ، وَالتَّبَيُّنُ مَزْدَلِفَةَ سَنَةً مُؤَكَّدَةٌ إِلَى الْفَجْرِ لَا وَاجِبَةً خِلَافًا لِلشَّافِعِيِّ فِيهِمَا كَمَا فِي اللَّيَابِ وَتَرْجِيهِ (قَوْلُهُ وَوَقُفُّهُ إِلَى) أَيِ وَقْفِ جَوَازِهِ. قَالَ فِي اللَّيَابِ: وَأَوَّلُ وَقْفِهِ طُلُوعُ الْفَجْرِ الثَّانِي مِنْ يَوْمِ النُّحْرِ، وَآخِرُهُ طُلُوعُ الشَّمْسِ مِنْهُ، فَمَنْ وَقَفَ بِهَا قَبْلَ طُلُوعِ الْفَجْرِ أَوْ بَعْدَ طُلُوعِ الشَّمْسِ لَا يُعْتَدُ بِهِ

(رد المحتار علي الدر المختار، ج ٣، ص ٤٠٦، دار المعرفة)

(وأول وقته طلوع الفجر الثاني) أي ظهور الصبح الصادق (يوم يوم النحر) أي الأول (وأخره طلوع الشمس منه، فمن وقف بها قبل طلوع الفجر أو بعد طلوع الشمس لا يعتد به) وهذا واضح. (وقدر الواجب منه ساعة ولو لطيفة) أي قليلة ولو لحظة أو لمحة (وقدر السنة امتداد الوقوف) أي من مبدأ الصبح (إلى الإسفار جدا) أي إلى الإضاءة بطريق المبالغة بحيث تكاد الشمس تطلع. (وأما ركنه) أي ركن هذا الواجب (فكintonته بمزدلفة) أي دون غيرها كوادي محسر

(حاشية إرشاد الساري إلى مناسك الملا علي القاري، ص ١١٣، مؤسسة الريان)

وَقَدَّرَ الْوَاجِبَ مِنْهُ سَاعَةً وَلَوْ لَطِيفَةً وَقَدَّرَ السَّنَةَ امْتِدَادُ الْوُقُوفِ إِلَى الْإِسْفَارِ جَدًّا، وَأَمَّا رُكْنُهُ فَكَيْتُونَتُهُ مَزْدَلِفَةَ سَوَاءً كَانَ يَفْعَلُ نَفْسَهُ أَوْ يَفْعَلُ غَيْرُهُ بِأَنْ يَكُونَ مَحْمُولًا بِأَمْرِهِ أَوْ يَخَّرُ أَهْرَهُ، وَهُوَ تَائِدٌ أَوْ مُغْمَى عَلَيْهِ أَوْ مَجْنُونٌ أَوْ سَكَرَانٌ نَوَاهُ أَوْ لَمْ يَتَّوَعَّلْ يَمًّا أَوْ لَمْ يَتَّوَعَّلْ يَمًّا أَوْ لَمْ يَتَّوَعَّلْ يَمًّا (رد المحتار علي الدر المختار، ج ٣، ص ٤٠٦، دار المعرفة)

(وأما ركنه) أي ركن هذا الواجب (فكintonته بمزدلفة) أي دون غيرها كوادي محسر... (ولو مر بها في وقته) أي وقت وقوفه (من غير أن يبيت بها) صوابه: من غير أن يبيت فيها (جاز) أي وقوفه (ولا شيء عليه) لأنه أتى بركن الواجب، وهو حصول الوقوف ضمن المرور كما في عرفة، والاستدامة غير واجبة هنا بخلافها بعرفة.

(حاشية إرشاد الساري إلى مناسك الملا علي القاري، ص ١١٣، مؤسسة الريان)

(والبيوتة بها سنة مؤكدة إلى الفجر) أن عندنا (لا واجبة)... (فبيبت تلك الليلة بها) أي كملا ليدرك الوقوف بها فجرا

(حاشية إرشاد الساري إلى مناسك الملا علي القاري، ص ٩٠٣، مؤسسة الريان)

[قال الحصكفي] فَإِذَا صَلَّى مَكَّةَ الْفَجْرِ يَوْمَ التَّوْبَةِ (ثَامِنُ الشَّهْرِ خَرَجَ إِلَى مَنَى) قَرْنِيَّةً مِنَ الْحَرَمِ عَلَى فَرَسٍ مِنْ مَكَّةَ (وَمَكَتَ بِهَا إِلَى فَجْرِ عَرَفَةَ ثُمَّ بَعْدَ طُلُوعِ الشَّمْسِ (زَاحَ إِلَى عَرَفَاتٍ) عَلَى طَرِيقِ ضُبِّ

[قال ابن عابدين] (قَوْلُهُ وَمَكَتَ بِهَا إِلَى فَجْرِ عَرَفَةَ) أَفَادَ طَلَبَ الْمَيْبِتِ بِهَا فَإِنَّهُ سَنَةٌ كَمَا فِي الْمَحِيطِ، وَفِي الْمَبْسُوطِ: يُسْتَحَبُّ أَنْ يَصَلِّيَ الظُّهْرَ يَوْمَ التَّوْبَةِ يَمْنَى وَيَقِيمَ بِهَا إِلَى صَبِيحَةِ عَرَفَةَ أَهـ وَيُصَلِّيَ الْفَجْرَ بِهَا لَوْ قَبْلَهَا الْمُحْتَارُ، وَهُوَ زَمَانُ الْإِسْفَارِ، وَفِي الْخَانِيَةِ يَغْلَسُ، فَكَأَنَّهُ قَاسَةً عَلَى فَجْرِ مُزْدَلِفَةَ وَالْأَكْثَرُ عَلَى الْأَوَّلِ فَهُوَ الْأَفْضَلُ شَرَحَ اللَّيَابِ. وَفِي مَتْنِ الْوُقُوفِ: وَأَمَّا مَا يَفْعَلُهُ النَّاسُ فِي هَذِهِ الْأَرْضَانِ مِنْ دُخُولِهِمْ أَرْضَ عَرَفَاتٍ فِي الْيَوْمِ الثَّامِنِ فَخَطَأٌ مُخَالَفٌ لِلسُّنَّةِ، وَيَقُودُهُمْ بِسَبَبِهِ سَنُّ كَثِيرَةٌ مِنْهَا الصَّلَاةُ يَمْنَى وَالْمَيْبِتُ بِهَا، وَالتَّوَجُّعُ مِنْهَا إِلَى تَمَرَةِ وَالتَّزَوُّدُ بِهَا وَالْحُلْبَةُ وَالصَّلَاةُ قَبْلَ دُخُولِ عَرَفَاتٍ وَغَيْرُ ذَلِكَ أَهـ وَقَوْلُهُ: وَالتَّوَجُّعُ مِنْهَا إِلَى تَمَرَةِ وَالتَّزَوُّدُ بِهَا فِيهِ عِنْدَنَا كَلَامٌ بَاطِلٌ قَرِيبًا (رد المحتار علي الدر المختار، ج ٣، ص ١٩٥، دار المعرفة)

[قال الحصكفي] (ثُمَّ أَتَى مَنَى) قَبِيْبَتِ بِهَا لِلرُّمَى

[قال ابن عابدين] (قَوْلُهُ قَبِيْبَتِ بِهَا لِلرُّمَى) أَيِ لَتَلِيَّ الْأَيَّامِ الرُّمَى هُوَ السُّنَّةُ فَلَوْ بَاتَ بِغَيْرِهَا كَرِهَ وَلَا يَلْزَمُهُ خِيٌّ، لُبَابُ (رد المحتار علي الدر المختار، ج ٣، ص ١٦٦، دار المعرفة)

ولو بات بمكة وخرج منها يوم عرفة إلى عرفات كان مخالفا للسنة ولا يلزمه الدم (الفتاوى التاتارخانية، ج ٣، ص ٥٠٥، مكتبة زكريا)

(وإن بات بمكة) وكذا بعرفة وغيرهما، فالأولي أن يقول: بغير منى (تلك الليلة جاز وأساء) أي أتى ترك السنة علي القول بها، فقال الفارسي تبعا لما في المحيط: المبيت بها

سنة، وقال الكرمانى: ليس بسنة وإيها هي للتهاب وللإسراحة، وفي المسوط: ويستحب أن يصلي الظهر يوم التروية بمني ويقيم بها إلى صبيحة عرفة. وأما ما ذكره المصنف في الكبير من قوله: ويدل أيضا على سنية ذلك استئناهم الدفع من مني بعد الطلوع فليس في محله، فإن هذه السنة مختصة لمن بات بمني. (حاشية إرشاد الساري إلى مناسك الملا علي القاري، ص ٧٦٢، مؤسسة الريان)

م: ثم لا يبيت بمكة، وفي شرح الطحاوي: ولا بالطريق، م: بل يعود إلى مني ويبيت ثمة، وفي الهداية: ويكره أن لا يبيت بمني ليالي الرمي، ولو بات في غيره متعمدا لا يلزمه شيء عندنا (الفتاوى التاتارخانية، ج ٣، ص ٤٣٥، مكتبة زكريا)

وَيُكْرَهُ أَنْ يَبِيتَ فِي غَيْرِ مَنْى فِي أَيَّامِ مَنْى كَذَا فِي شَرْحِ الطَّحَاوِيِّ فَإِنْ بَاتَ فِي غَيْرِهَا مُتَعَمِّدًا فَلَا شَيْءَ عَلَيْهِ عِنْدَنَا كَذَا فِي الْهَدَايَةِ (الفتاوى الهندية، ج ١، ص ٣٢٢، مكتبة رشيدية)

(ولو بات أكثر لياليها في غير مني كره) أي تنزيها (ولا يلزمه شيء) أي عندنا (والسنة أن يبيت مني ليالي أيام الرمي) أي إن تأخر، وإلا ففي ليلتين. (حاشية إرشاد الساري إلى مناسك الملا علي القاري، ص ٣٣٢، مؤسسة الريان)

ويسن أن يبيت بمني ليالي أيام الرمي، فلو بات بغيرها متعمدا كره لا شيء عليه عندنا، وقال مالك والشافعي رحمهما الله تعالى: هو واجب ينجر بالدم، والمعتبر فيه معظم الليل اتفاقا. (غنية الناسك، ص ٩٧١، إدارة القرآن والعلوم الإسلامية)

وم ينقل الأصحاب علي القدر المجتبر في سنية المبيت، هل هو كل الليل من أوله حتى الصباح؟ أو هو المبيت في بعض الليل سواء كان في أوله أو آخره؟ ولا ريب أن الأكمل والأفضل المبيت بها من أول الليل إلى آخره اقتداء بسيدنا رسول الله صلى الله عليه وسلم. أما لو بات بها أكثر الليل ينبغي أن يكون آتيا بالسنة أيضا: لأن للأكثر حكم الكل، إذ البيوتة وردت مطلقة، والمطلق ينصرف إلى الكامل وهو الليل أو أكثره: وهو مقتضى ما ذكره الأصحاب في الأمان: لو حلف لبييت الليلة، فالمجتبر أكثر الليل، نص عليه صاحب القنية وغيره. (البحر العميق، ج ٤، ص ٦٨٨١-٧٨٨١، مؤسسة الريان)

aknU ruA liaasa m eK pA 5. v. p 053. iwnayhduL habatkaM (1102)

وأما المبيت بمني ليلة كالثلاث أيام التشريق، فحكمه إن لم ينفر حتى غربت الشمس كحكم الأولين، ولو نفر في النفر الأول قبل الغروب، جاز وسقط عنه مبيت الليلة عند الأئمة الأربعة. وهذا الذي ذكرناه في حق من لا عذر له. أما الذي له عذر كرعاء الإبل، فإنه يجوز لهم ترك المبيت لعذر الرعي، وكذا أهل السقاية، وكل من له عذر كمن يخاف نفسه أو ماله واشتغل بالمبيت.

(في التعليق للمحقق) وألحق الفقهاء بأهل الأعذار في سقوط المبيت: سائر أهل الأعذار: مثل مرض يشق معه المبيت، وكذا ممن اشتغل ليلته بطواف الإفاضة؛ لأنه لازم له من عمل الحج، ويمكن للفقيه - من خلال ما سبق بيانه في جواز ترك المبيت مبني - أن يلحق بهم في الرخص من يقوم برعايتهم من السائقين والخدم... الخ... ويمكن أيضا أن يلحق بالسقاة والرعاة من يدخل معهم في علة المشقة في المبيت لحاجة الناس إليهم، أو تقتضي المصلحة العامة وجودهم في وظائفهم - خارج مني - حفاظا على الأمن والنظام، ومراعاة لقضاء حوائج الناس التي لا يمكن تأديتها من قبل غيرهم: مثل الأطباء في المشتفيات، والمساعدين لهم، أو العاملين في مرافق الصحة أو العاملين في مجال الأمن وتنظيم السير، أو من يقومون بشؤون الحرم أو المشاعر أو مصلحة المياه والمجاري والكهرباء وكذا من يقوم برعاية المرضى أو المعوقين أو المعتوهين أو المسننين أو التائهين ونحوهم مما لا يتسع المجال لذكرهم.

(البحر العميق، ج ٤، ص ٧٨٨١، مؤسسة الريان)
المراجع السابقة

TAWAF AL ZIYARAH WITHOUT WUDHU

Q: I and my wife performed Hajj this year. At start of Tawaf Ziarat Her wudo was broken but there was extreme rush and we had two children with us. It was very difficult to go out so she did tayyummum at same place and did Tawaf. Please tell me was it right and is there any damm on it?

A : In the enquired case, since the tayammum was not valid because of the availability of water nearby, you would need to make damm (sacrifice a sheep) for doing Tawaf-i-Ziyarah without wudhu.

بدائع الصنائع في ترتيب الشرائع (2/ 921)

فَإِذَا طَافَ مِنْ غَيْرِ طَهَارَةٍ فَمَا دَامَ يَتَكَبَّرُ عَلَيْهِ الْإِعَادَةُ: لِأَنَّ الْإِعَادَةَ جِزْءٌ لَهُ بِجَنْسِهِ، وَجِزْءُ الشَّيْءِ بِجَنْسِهِ أَوَّلَى: لِأَنَّ مَعْنَى الْجِزْءِ، وَهُوَ الثَّلَاثِي فِيهِ أَتَمُّ ثُمَّ إِنْ أَعَادَ فِي أَيَّامِ النُّحْرِ فَلَا شَيْءَ عَلَيْهِ، وَإِنْ أُخِرَتْ عَنْهَا فَعَلَيْهِ دَمٌ فِي قَوْلِ أَبِي حَنِيفَةَ، وَالْمَسْأَلَةُ تَأْتِي إِنْ شَاءَ اللَّهُ تَعَالَى فِي مَوْضِعِهَا، وَإِنْ لَمْ يَعُدْ، وَرَجَعَ إِلَى أَهْلِهِ فَعَلَيْهِ الدَّمُ غَيْرَ أَنَّهُ إِنْ كَانَ مُحْدِثًا فَعَلَيْهِ شَاةٌ، وَإِنْ كَانَ جُنُبًا فَعَلَيْهِ بَدَنَةٌ: لِأَنَّ الْحَدَّثَ يُوجِبُ تَقْضَاءَ تَسِيرًا فَتَكْفِيهِ الشَّاةُ بِجِزْئِهِ كَمَا لَوْ تَرَكَ شَوْطًا

الاختيار لتعليل المختار (1/ 261)

قَالَ: (وَلَوْ طَافَ لِلْقُدُومِ أَوْ لِلصَّدْرِ جُنُبًا أَوْ لِلزِّيَارَةِ مُحْدِثًا فَعَلَيْهِ شَاةٌ) لِأَنَّهُ أَدْخَلَ النِّقْصَ فِي الرُّكْنِ وَهُوَ طَوَافُ الزِّيَارَةِ فَتَجِبُ الشَّاةُ

العناية شرح الهداية (3/ 25)

(وَلَوْ طَافَ طَوَافُ الزِّيَارَةِ مُحْدِثًا فَعَلَيْهِ شَاةٌ: لِأَنَّهُ أَدْخَلَ النِّقْصَ فِي الرُّكْنِ)، وَإِذْ خَالَ النِّقْصَ فِي الرُّكْنِ أَفْحَشُ مِنْ إِدْخَالِهِ عَلَى الْوَاجِبِ

الجوهرية النيرة على مختصر القدوري (1/ 171)

(قَوْلُهُ وَمَنْ طَافَ طَوَافَ الزِّيَارَةِ مُحْدِثًا فَعَلَيْهِ شَاةٌ) لِأَنَّهُ أَدْخَلَ النِّقْصَ فِي الرُّكْنِ فَكَانَ أَفْحَشَ مِنَ الْأَوَّلِ وَهُوَ طَوَافُ الْقُدُومِ فَيُجِبُ بِالْأَمْرِ وَكَذَا لَوْ طَافَ أَكْثَرُهُ مُحْدِثًا لِأَنَّ الْإِكْثَرَ عُدُّهُ الْكُلَّ

UMRAH UPON CHILDREN

Q : I made a niyyat to perform umrah this year together with my wife and two kids. Other family members will be travelling with us as well.

Is it required that my kids perform the umrah which will imply ihraam, tawaaf, saee etc. Or can i leave them in the room with a responsible family person whilst my wife and I complete our umrah.

A : It is not required for your minor children to perform ‘Umrah.

CONSUMING UNDEVEINED PRAWNS

Q:My question pertains to permissibility of eating prawns or shrimps. I know that it is halal in some schools and haram in others depending upon whether prawns are considered fish or not. My question is that in the schools that consider eating prawns halal, is it permissible to eat prawns that have not been deveined? Prawns have 2 visible veins in their body, 1 running along the back and one along its belly. The one along the back is actually its digestive tract and is filled with partially digested food as well as faeces. The digestive tract can be removed (deveining) before cooking. However if we eat a prawn in which the digestive tract has not been removed we would be consuming its faeces along with the flesh. Faeces is generally considered impure and haram. Would this also apply to prawn faeces? If so, then would it be permissible to eat a prawn whose digestive tract has not been removed before cooking?

A:The impurities in the digestive tract of a fish have to be removed in order for the fish to become permissible to consume. This is more essential in small fishes where generally the digestive tract is not cleaned. Accordingly, the same ruling will apply to prawns if consumed based on the opinion of those 'Ulamā who regard prawns as a fish. Therefore, it will be necessary to remove the digestive tract (a dark dorsal vein) before consuming.

وفي "الذخيرة": لو وجد سمكة في بطن طائفة يؤكل، وإن كانت الطائفة لا تؤكل، ولو وجد في حوصلة طائر يؤكل وعند الشافعي - رحمه الله - لا يؤكل لأنه كالرجيع، ورجيع الطائر عنده نجس. قلنا: إنما يصير رجيعاً إذا تغير. وفي السمك الصغار التي تقل من غير أن يشق جوفها، قال أصحابنا: لا يحل أكله لأن رجيعته نجس. وعندنا وسائر أجزائه تحل

[البنية، كتاب الذبائح، السمك إذا مات بأفة، ج ١١، ص ٥١٦، دار الكتب العلمية]

قلت: وفي معراج الدراري: لو وجدت سمكة في حوصلة الطائر تؤكل، وعند الشافعي لا تؤكل لأنه كالرجيع ورجيع الطائر عنده نجس، وقلنا: إنما يصير رجيعاً إذا تغير. وفي السمك الصغار التي تقل من غير أن يشق جوفها، فقال أصحابنا لا يحل أكله لأن رجيعه نجس، وعند سائر الأئمة يحل [رد المحتار، كتاب الذبائح، ج ٦، ص ٩٠٣، سعيد]

السمك الصغار كلها مكروهة كراهة التحريم هو الأصح

[جواهر الأخلاط، کتاب الذبائح، ص ۷۸۲/۹۲۲، مخطوط]

اس پر بندہ کو مدت سے اشکال تھا کہ مچھلی کا رجیع کیونکر حلال قرار دیا گیا؟ جواہر الاخلاط کی نص کراہت تحریمہ سے اطمینان ہوا۔ حرمت سمک صغار کی علت یہ ہے کہ آلاش صاف کئی بغیر کھائی جاتی ہے اس سے مراد متعین ہے گی۔ [احسن الفتاوی، کتاب الصيد و الذبائح، ج ۷، ص ۹۸۲، سعید]

سوال: و مچلی آلاش بغیر دور کئے ہوئے اس کے معدہ سمیت خشک کر لی جاتی ہے، اس کو کھانا درست ہے یا نہیں؟
جواب: اس کو شگاف دے کر دھو کر پاک کر کے کھانا درست ہے۔
[امداد الفتاوی، خشک مچلی کھانا، ج ۴، ص ۴۰۱، مکتبہ دار العلوم کراچی]

EATING IN A RESTAURANT WHERE LIQUOR IS SERVED

Q: A family member owns a restaurant where they sell alcohol and allows customers to drink there. Is it permissible to sit in such a restaurant and eat?

A: It is not permissible for a Muslim to sell or serve alcohol in his restaurant. Furthermore, it does not behave a Muslim to eat in such a restaurant, irrespective of the restaurant being owned by a family member or anyone else.

'MUSLIM' MEALS ON INTERNATIONAL FLIGHTS

Q: Can we eat Muslim meals on international flights? Like LUFTANSA, UNITED, EMIRATES, ETHIHAD ETC.

A: Shari'ah emphasizes on exercising precaution in consuming food and to ensure the food is halal and beyond doubt. The Muslim meals offered by the various international flights generally refer to the meat in Muslim meals being halal. According to Shari'ah, halal meat refers to the meat of animals that can be consumed in Shari'ah, for example, chickens, goat, cattle, sheep, etc., if

the animal is slaughtered according to the Shari'ah laws of zabiha. It cannot be said with certainty that the halal meals offered on international flights is indeed halal. Some people have an incorrect understanding of halal, for example, the animal slaughtered by machine is regarded as halal. Furthermore, we do not know of the halal standards in different parts of the world.

It is possible that some halal certifying organizations have corrupt beliefs (aqidah) while other organizations may be lax in their supervision of halal etc. etc. When one is uncertain of the halal position of the meat on international flights, one should abstain from consuming such meals.

(عَنِ الثُّعْمَانِ بْنِ نَشِيرٍ رَضِيَ اللَّهُ عَنْهُ، قَالَ: قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «الْحَلَالُ بَيْنُ، وَالْحَرَامُ بَيْنُ، وَبَيْنَهُمَا أُمُورٌ مُشْتَبِهَةٌ، فَمَنْ تَرَكَ مَا شُبَّهَ عَلَيْهِ مِنَ الْإِثْمِ، كَانَ لَهَا اسْتَبْتَانٌ أَثَرُكَ، وَمَنْ اجْتَرَأَ عَلَى مَا يَشْكُ فِيهِ مِنَ الْإِثْمِ، أَوْشَكَ أَنْ يُوَافِقَ مَا اسْتَبْتَانَ، وَالْمَعَاصِي جَمْعُ اللَّهِ مَنْ يَرْتَفِعْ حَوْلَ الْحَيِ يُوشِكُ أَنْ يُوَافِقَهُ» صحيح البخاري (3/ 35)

ANTI-DEPRESSANT HOMEMADE MIXTURE FROM THE SUNNAH

Q: I heard from someone that talbeenah is very good for sick people. Can you please advise relevant benefit of it and how is it made?

A: Talbeenah or Talbeen is a mixture made from either barley, milk, and honey or barley, milk, and dried dates. It can also be made with water. Talbeenah is recommended by Rasulullah Sallallahu Alayhi Wasallam which serves as an anti-depressant and is beneficial to overcome anxiety. The Hadith on Talbeenah is as follows:

عَنْ عَائِشَةَ، زَوْجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَنَّهَا كَانَتْ إِذَا مَاتَ الْمَيِّتُ مِنْ أَهْلِهَا، فَاجْتَمَعَ لِذَلِكَ النِّسَاءُ، ثُمَّ تَفَرَّقْنَ إِلَّا أَهْلَهَا وَخَاصَّتَهَا، أَمَرَتْ بِزِمَّةٍ مِنْ تَلْبِينَةٍ فَطَبَخَتْ، ثُمَّ صَنَعَ تَرِيدٌ فَصَبَّتِ التَّلْبِينََةَ عَلَيْهَا، ثُمَّ قَالَتْ: كُلْنَ مِنْهَا، فَإِنِّي سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «التَّلْبِينَةُ مُجَمَّةٌ لِفُؤَادِ الْمَرِيضِ، تَذْهَبُ بِبَعْضِ الْحُزَنِ»

Narrated 'Aisha: (the wife of the Prophet) that whenever one of her relatives passed away, the women assembled and then dispersed (returned to their houses) except her relatives and close friends. She would order that a pot of Talbina be cooked. Then Tharid (a dish prepared from meat and bread) would be prepared and the Talbina would be poured on it. 'Aisha would say (to the women), "Eat of it, for I heard Allah's Messenger saying, 'The Talbina soothes the heart of the patient and relieves him from some of his sadness/grief.' "

Hafiz Ibn Hajar Rahimahullah has explained the benefits of Talbeenah and its effect on the body and digestive system in his commentary of Bukhari Shareef as follows:

قَالَ الْمُؤَفَّقُ الْبَغْدَادِيُّ إِذَا شَتَّ مَعْرِفَةَ مَنَافِعِ التَّلْبِينَةِ فَاعْرِفْ مَنَافِعَ مَاءِ الشَّعِيرِ وَلَا سِمْمَا إِذَا كَانَ نُحَالَةً فَإِنَّهُ يَجْلُو وَيُنْفِذُ بِسُرْعَةٍ وَيُعَدِّي غَدَاءً لَطِيفًا وَإِذَا شَرِبَ حَارًّا كَانَ أَجْلَى وَأَقْوَى نُفُودًا وَأَمَى لِلْحَرَارَةِ الْغَرِيزَةِ قَالَ وَالْمُرَادُ بِالْفُؤَادِ فِي الْحَدِيثِ رَأْسُ الْمَعِدَةِ فَإِنَّ فُؤَادَ الْحَزِينِ يَضْعَفُ بِاسْتِيلَاءِ النَّبَسِ عَلَى أَعْضَائِهِ وَعَلَى مَعِدَتِهِ خَاصَّةً لِتَقْلِيلِ الْغَدَاءِ وَالْحَسَاءِ يُرَطِّبُهَا وَيُعَدِّيهَا وَيَقْوِيهَا وَيَفْعَلُ مِثْلَ ذَلِكَ بِفُؤَادِ الْمَرِيضِ لَكِنَّ الْمَرِيضَ كَثِيرًا مَا يَجْتَمِعُ فِي مَعِدَتِهِ خَلْطٌ مَرَارِيٍّ أَوْ بَلْغَمِيٍّ أَوْ صَدِيدِيٍّ وَهَذَا الْحَسَاءُ يَجْلُو ذَلِكَ عَنِ الْمَعِدَةِ

Imam Muwaffaq al-Baghdadi Rahimahullah says: If you wish to know about the benefits of talbeenah, then you should understand the benefits of barley juice; especially when it is in the form of bran since it digests very quickly and provides a very light form of nourishment. And when it is consumed while it is hot, then it digests even more easily and it increases the natural heat of the body. He further mentions: the meaning of 'fu'aad/heart" in the Hadith is the stomach itself because the heart of a sad person becomes weak when dryness increases in his body parts and [increases] specifically in his stomach due to the lack of nourishment. And the soup/porridge moistens it, nourishes it, and provides it strength. It also has a similar effect on the heart of a sick person. However, the stomach of a sick person is often mixed with bile, mucus, or pus and this soup removes these substances from the stomach.

Recipe of Talbeenah:

1. Mix barley with milk or water and let it boil for approximately 45 minutes.
2. Add honey or dried dates.

There is always blessings and barakah in following the prescription of Rasulallah Sallallahu Alayhi Wasallam especially in this era of grief and depression. We therefore advise people involved in the food industry to consider manufacturing talbeenah and promoting the prescription of Rasulallah Sallallahu Alayhi Wasallam.

[1] والتَّالْبِينُ: حَسَاءٌ يُتَّخَذُ مِنْ مَاءِ الثُّحَالَةِ فِيهِ لَبَنٌ، وَهُوَ اسْمُ كَالْتَمَتَيْنِ. وَفِي حَدِيثٍ

عَائِشَةَ، رَضِيَ اللَّهُ عَنْهَا، قَالَتْ: سَمِعْتُ رَسُولَ اللَّهِ، صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، يَقُولُ التَّالْبِينَةُ مَجْمَعٌ لِفُؤَادِ الْمَرِيضِ تُذْهِبُ بَعْضَ الْحُزَنِ

: الْأَصْمَعِيُّ: التَّالْبِينَةُ حَسَاءٌ يُعْمَلُ مِنْ دَقِيقٍ أَوْ ثُحَالَةٍ وَيُجْعَلُ فِيهَا عَسَلٌ، سُمِّيَتْ تَلْبِينَةً تَشْبِيهَا بِاللَّبَنِ لِتَبَاطُئِهَا وَرِقَّتِهَا، وَهِيَ تَسْمِيَةٌ بِالْمَرَّةِ مِنَ التَّلْبِينِ مُضَرٌّ لَبَنٍ الْقَوْمِ أَيْ سَفَاهِمِ اللَّبَنِ، وَقَوْلُهُ مَجْمَعٌ لِفُؤَادِ الْمَرِيضِ أَيْ تَشْرُو عَنْهُ هَمُّهُ أَيْ تَكْشِفُهُ. وَقَالَ الزَّيْطِيُّ فِي حَدِيثٍ

عَائِشَةَ: عَلَيَّكُمْ بِالمُشَبَّنَةِ النَّافِعَةِ التَّلْبِينِ

: قَالَ: يَعْنِي الْخَسَو، قَالَ: وَسَأَلْتُ الْأَصْمَعِيَّ عَنِ الْمَشَبَّنَةِ فَقَالَ: يَعْنِي الْبَغِيضَةَ، ثُمَّ فَسَّرَ التَّلْبِينَةَ كَمَا ذَكَرْنَا.

[لسان العرب، لام، ج، ٨، ص ٨٢، دار الحديث]

[2] (قَوْلُهُ بَابُ التَّلْبِينَةِ لِلْمَرِيضِ)

هِيَ يَفْتَحُ الْمُتَنَاةَ وَسُكُونِ الْأَمِّ وَكَسَرَ الْمُوَخَدَةَ بَعْدَهَا تَخْتَابُ ثُمَّ نُونٌ ثُمَّ هَاءٌ وَقَدْ يُقَالُ بِلَا هَاءٍ قَالَ الْأَصْمَعِيُّ هِيَ حَسَاءٌ يُعْمَلُ مِنْ دَقِيقٍ أَوْ ثُحَالَةٍ وَيُجْعَلُ فِيهِ عَسَلٌ قَالَ غَزِيرَةُ أَوْ لَبَنٌ سُمِّيَتْ تَلْبِينَةً تَشْبِيهَا لَهَا بِاللَّبَنِ فِي بَيَاضِهَا وَرِقَّتِهَا وَقَالَ بَنُ هُذَيْبَةَ وَعَلَى قَوْلٍ مِنْ قَالَ يُخْلَطُ فِيهَا لَبَنٌ سُمِّيَتْ بِذَلِكَ لِمُخَالَطَةِ اللَّبَنِ لَهَا وَقَالَ أَبُو نُعَيْمٍ فِي الطَّبِّ هِيَ دَقِيقٌ بَخْتُ وَقَالَ قَوْمٌ فِيهِ شَحْمٌ وَقَالَ الدَّأُوْدِيُّ يُؤْخَذُ الْعَجِينُ غَيْرَ خَمِيرٍ فَيُخْرَجُ حَسَا فَيَكُونُ لَا يُخَالِطُهُ شَيْءٌ فَلِذَلِكَ كَثُرَ نَفْعُهُ وَقَالَ الْمُؤَفَّقِيُّ الْبَغْدَادِيُّ التَّلْبِينَةُ الْحَسَاءُ وَيَكُونُ فِي قِيَامِ اللَّبَنِ وَهُوَ الدَّقِيقُ النَّضِيجُ لَا الْقَلِيطُ النَّيْ... (كَانَتْ تَأْمُرُنَا بِالتَّلْبِينَةِ وَتَقُولُ هُوَ الْبَغِيضُ النَّافِعُ) وَوَقَعَ عِنْدَ أَحْمَدَ وَابْنِ مَاجَةَ مِنْ طَرِيقٍ كَلْنَمَ عَنْ عَائِشَةَ مَرْفُوعًا عَلَيْنَا بِالْبَغِيضِ النَّافِعِ التَّلْبِينَةِ يَعْنِي الْحَسَاءَ وَأَخْرَجَهُ النَّسَائِيُّ مِنْ وَجْهِ آخَرَ عَنْ عَائِشَةَ وَزَادَ الَّذِي نَفْسُ مُحَمَّدٍ بِيَدِهِ إِذَا لَتَغَسَّلَ بَطْنَ أَحَدِكُمْ كَمَا يَغْسِلُ أَحَدُكُمْ الْوَسَخَ عَنْ وَجْهِهِ بِالمَاءِ وَلَهُ وَهُوَ عِنْدَ أَحْمَدَ وَالثَّوْمِيَّ مِنْ طَرِيقِ مُحَمَّدِ بْنِ السَّائِبِ بْنِ بَرَكَةَ عَنْ أُمِّهِ عَنْ عَائِشَةَ قَالَتْ كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا أَخَذَ أَهْلَهُ الْوَعَلَ أَمَرَ بِالْحَسَاءِ فَصَنَعَ ثُمَّ أَمَرَهُمْ فَحَسَوْا مِنْهُ ثُمَّ قَالَ إِنَّهُ يَرْثُو فُؤَادَ الْعَرَبِينَ وَيَشْرُو عَنْ فُؤَادِ الشَّقِيهِ كَمَا تَشْرُو إِحْدَاكُمُ الْوَسَخَ عَنْ وَجْهِهِ بِالمَاءِ وَيَرْثُو يَفْتَحُ أَوَّلَهُ وَسُكُونِ الرَّاءِ وَضَمُّ الْمُتَنَاةِ وَتَشْرُو وَرَثَهُ بَسِينٍ مُهْمَلَةٍ ثُمَّ رَاءَ وَمَعْنَى يَرْثُو يَقْوَى وَمَعْنَى يَشْرُو يَكْشِفُ وَالْبَغِيضُ يُوْزَنُ عَظِيمٌ مِنَ الْبَغِيضِ أَيْ يُبَغِّضُهُ الْمَرِيضُ مَعَ كَوْنِهِ يَنْفَعُهُ كَسَائِرِ الْأَدْوِيَةِ... قَالَ الْمُؤَفَّقِيُّ الْبَغْدَادِيُّ إِذَا شَبْتُ مَعْرِفَةَ مَنَافِعِ التَّلْبِينَةِ فَارْغِي مَنَافِعَ مَاءِ الشَّعِيرِ وَلَا سِوَاهُ إِذَا كَانَ ثُحَالَةً فَإِنَّهُ

يَجْلُو وَيَتَنَفَّذُ بِسُرْعَةٍ وَيُعْذِي غِذَاءً طَيِّبًا وَإِذَا شَرِبَ حَارًّا كَانَ أَجْلَى وَأَفْوَى نُفُودًا وَأَمَى لِلْحَرَارَةِ الْغَرِيبَةِ قَالَ وَالْمَرَادُ بِالْفُؤَادِ فِي الْحَدِيثِ رَأْسُ الْمَعِدَةِ فَإِنَّ فُؤَادَ الْحَزِينِ يَضَعُفُ بِاسْتِيلَاءِ النَّبَسِ عَلَى أَعْضَانِهِ وَعَلَى مَعِدَتِهِ خَاصَّةً لِتَقْلِيلِ الْغِذَاءِ وَالْحَسَاءِ يُرْطَبُهَا وَيُعْذِيهَا وَيَقْوِيهَا وَيَفْعَلُ مِثْلَ ذَلِكَ بِفُؤَادِ الْمَرِيضِ لَكِنَّ الْمَرِيضَ كَثِيرًا مَا يَجْتَمِعُ فِي مَعِدَتِهِ جِلْطٌ مَرَارِيٌّ أَوْ بَلْغَمِيٌّ أَوْ صَدِيدِيٌّ وَهَذَا الْحَسَاءُ يَجْلُو ذَلِكَ عَنِ الْمَعِدَةِ قَالَ وَسَمَاءُ التَّبْيِضِ النَّافِعُ لِلَّهِ الْمَرِيضُ يَغَالُثُهُ وَهُوَ نَافِعٌ لَهُ قَالَ وَلَا خِيءَ أَنْفَعُ مِنَ الْحَسَاءِ لِمَنْ يَغْلُبُ عَلَيْهِ فِي غِذَائِهِ الشَّعِيرُ وَأَمَّا مَنْ يَغْلِبُ عَلَى غِذَائِهِ الْجَنْطَةُ فَالْأَوَّلُ بِهِ فِي مَرَضِهِ حَسَاءُ الشَّعِيرِ وَقَالَ صَاحِبُ الْهَدْيِ التَّلْبِينَةِ أَنْفَعُ مِنَ الْحَسَاءِ لِأَنَّهَا تُطْنِجُ مَطْطُونَةً تَخْرُجُ خَاصَّةً الشَّعِيرَ بِالطَّحْنِ وَهِيَ أَكْثَرُ تَغْذِيَةً وَأَفْوَى فَعَلًا وَأَكْثَرُ جَلَاءً وَإِنَّمَا اخْتَارَ الْأَطْبَاءُ النَّضِيجَ لِأَنَّهُ أَرْقَى وَالطَّلَفُ فَلَا يَثْقُلُ عَلَى طَبِيعَةِ الْمَرِيضِ وَيَنْبَغِي أَنْ يَخْتَلِفَ الْإِنْتِفَاعُ بِذَلِكَ بِحَسَبِ اخْتِلَافِ الْعَادَةِ فِي الْبِلَادِ وَلَعَلَّ الْأَثَرِ بِالْمَرِيضِ مَاءَ الشَّعِيرِ إِذَا طَبَخَ صَحِيحًا وَالْحَزِينِ إِذَا طَبَخَ مَطْطُونًا لَمَّا تَقَدَّمَتِ الْإِشَارَةُ مِنَ الْفَرْقِ بَيْنَهُمَا فِي الْخَاصِيَةِ وَاللَّهُ أَعْلَمُ

[فتح الباري، كتاب الطب، باب التلبينة للمريض، ج ١، ص ٦٦١، دار الحديث]

[عمدة القاري، كتاب الطب، باب التلبينة، ج ١، ص ٨٤٤، المكتبة التوفيقية]

[تكملة فقه المجله، كتاب الطب، باب التلبينة، ج ٥، ص ٩٠٢، دار القلم]

[قاموس الفقه، تلبينة، ج ٢، ص ٨٢٥، زمزم پبلشرز]

التلْبِينُ: هُوَ الْجَسَاءُ الرَّقِيقُ الَّذِي هُوَ فِي قَوَامِ اللَّبَنِ، وَمِنْهُ اشْتُقَّ اسْمُهُ، قَالَ الْهَرَوِيُّ: سُمِّيَتْ تَلْبِينَةً لِشَبْهَةِهَا بِاللَّبَنِ لِتَبَاضُحِهَا وَرَفْعِهَا، وَهَذَا الْغِذَاءُ هُوَ النَّافِعُ لِلْعَلِيلِ، وَهُوَ الرَّقِيقُ النَّضِيجُ لَا الْغَلِيطُ النَّيَّ، وَإِذَا شَبْتُ أَنْ تُعْرِفَ فَضْلَ التَّلْبِينَةِ فَاعْرِفْ فَضْلَ مَاءِ الشَّعِيرِ، بَلْ هِيَ مَاءُ الشَّعِيرِ لَهُمْ، فَإِنَّهَا حَسَاءٌ مُنْعَذٌ مِنْ دَقِيقِ الشَّعِيرِ بِمُخَالَتِهِ، وَالْفَرْقُ بَيْنَهُمَا أَنَّ مَاءَ الشَّعِيرِ أَنَّهُ يُطْبَخُ صَحَاحًا، وَالتَّلْبِينَةُ تُطْنِجُ مِنْهُ مَطْطُونًا، وَهِيَ أَنْفَعُ مِنْهُ لَخُرُوجِ خَاصِيَةِ الشَّعِيرِ بِالطَّحْنِ، وَقَدْ تَقَدَّمَ أَنَّ لِلْعَادَاتِ تَأْثِيرًا فِي الْإِنْتِفَاعِ بِالْأَدْوِيَةِ وَالْأَغْذِيَةِ، وَكَانَتْ عَادَةُ الْقَوْمِ أَنْ يَتَّخِذُوا مَاءَ الشَّعِيرِ مِنْهُ مَطْطُونًا لَا صَحَاحًا، وَهُوَ أَكْثَرُ تَغْذِيَةً وَأَفْوَى فَعَلًا وَأَعْظَمُ جَلَاءً، وَإِنَّمَا اخْتَارَهُ أَطْبَاءُ الْمَدِينِ مِنْهُ صَحَاحًا لِيَكُونَ أَرْقَى وَالطَّلَفُ، فَلَا يَثْقُلُ عَلَى طَبِيعَةِ الْمَرِيضِ، وَهَذَا بِحَسَبِ طَبَائِعِ أَهْلِ الْمَدِينِ وَخَوَانَتِهَا، وَثَقُلَ مَاءُ الشَّعِيرِ الْمَطْطُونِ عَلَيْهِمَا، وَالْمَقْصُودُ: أَنَّ مَاءَ الشَّعِيرِ مَطْطُونًا صَحَاحًا يَنْفَعُ سَرِيعًا، وَيَجْلُو جَلَاءً ظَاهِرًا وَيُعْذِي غِذَاءً طَيِّبًا. وَإِذَا شَرِبَ حَارًّا كَانَ جَلَاءً أَفْوَى، وَنُفُودُهُ أَسْرَعَ وَإِنَّمَا لَهُ لِلْحَرَارَةِ الْغَرِيبَةِ أَكْثَرُ وَلْتَمِيسُهُ لِسُطُوحِ الْمَعِدَةِ أَوْفَقًا.

وَقَوْلُهُ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِيهَا: («مَجْمَعَةٌ لِفُؤَادِ الْمَرِيضِ») يُرَوَّى بِوَجْهَيْنِ. يَفْتَحُ الْمِيمَ وَالْجِيمَ، وَيَضُمُّ الْمِيمَ وَكسْرَ الْجِيمِ، وَالْأَوَّلُ: أَشْهُرُ وَمَعْنَاهُ: أَنَّهَا مُرِيعَةٌ لَهُ، أَيْ ثَرِيحَةٌ وَتَسْكُنُهُ مِنَ الْإِجْهَامِ، وَهُوَ الرَّاحَةُ، وَقَوْلُهُ " تَذْهَبُ بِنَبْضِ الْخُرْنِ " هَذَا - وَاللَّهُ أَعْلَمُ - لِأَنَّ الْغَمَّ وَالْخُرْنَ يُزَادَانِ الْمَرَجَ، وَيَضَعِفَانِ الْحَرَارَةَ الْغَرِيبَةَ لِغَلَبِ الرُّوحِ الْحَامِلِ لَهَا إِلَى جِهَةِ الْقَلْبِ الَّذِي هُوَ مَسْتَوْسُهَا، وَهَذَا الْجَسَاءُ يُقْوِي الْحَرَارَةَ الْغَرِيبَةَ بِزِيَادَتِهِ فِي مَادَتِهَا، فَتُرِيدُ أَكْثَرُ مَا عَرِضَ لَهُ مِنَ الْغَمِّ وَالْخُرْنِ.

وَقَدْ يُقَالُ - وَهُوَ أَقْرَبُ - إِنَّهَا تَذْهَبُ بِنَبْضِ الْخُرْنِ بِخَاصِيَةٍ فِيهَا مِنْ جَنْسِ خَوَاصِ الْأَغْذِيَةِ الْمُفْرَحَةِ فَإِنَّ مِنَ الْأَغْذِيَةِ مَا يَفْرَحُ بِالْخَاصِيَةِ، وَاللَّهُ أَعْلَمُ.

وَقَدْ يُقَالُ: إِنَّ قُوَى الْحَزِينِ تَضَعُفُ بِاسْتِيلَاءِ النَّبَسِ عَلَى أَعْضَانِهِ، وَعَلَى مَعِدَتِهِ خَاصَّةً لِتَقْلِيلِ الْغِذَاءِ، وَهَذَا الْجَسَاءُ يُرْطَبُهَا وَيَقْوِيهَا وَيُعْذِيهَا، وَيَفْعَلُ مِثْلَ ذَلِكَ بِفُؤَادِ الْمَرِيضِ، لَكِنَّ الْمَرِيضَ كَثِيرًا مَا يَجْتَمِعُ فِي مَعِدَتِهِ جِلْطٌ مَرَارِيٌّ، أَوْ بَلْغَمِيٌّ أَوْ صَدِيدِيٌّ، وَهَذَا الْجَسَاءُ يَجْلُو ذَلِكَ عَنِ الْمَعِدَةِ وَيَسْرُوهُ وَيَحْدَرُهُ وَيَمِيعُهُ وَيُعَدِّلُ كَثِيفَتَهُ وَيَكْسِرُ سَوَرَتَهُ، فَيُرِيحُهَا وَلَا يَسِيمُ لِمَنْ عَادَتُهُ الْإِعْظَامُ بِخُبْرِ الشَّعِيرِ، وَهِيَ عَادَةُ أَهْلِ الْمَدِينَةِ إِذْ ذَاكَ، وَكَانَ هُوَ غَالِبَ قُوَّتِهِمْ، وَكَانَتْ الْجَنْطَةُ عَزِيْزَةً عِنْدَهُمْ، وَاللَّهُ أَعْلَمُ.

[زاد المعاد، فصل في هديه صلى الله عليه وسلم في تغذية المريض، ج ٤، ص ١١١، مؤسسة الرسالة]

[3] صحيح البخاري (57 / 7)

حَدَّثَنَا يَحْيَى بْنُ بُكَيْرٍ، حَدَّثَنَا اللَّيْثُ، عَنْ عَقِيلٍ، عَنْ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ، زَوْجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَنَّهَا كَانَتْ إِذَا مَاتَ الْمَيِّتُ مِنْ أَهْلِهَا، فَاجْتَمَعَ لِذَلِكَ النِّسَاءِ، ثُمَّ تَقَرَّرْنَ إِلَّا أَهْلَهَا وَخَاصَّتَهَا، أَمَرَتْ بِرِيمَةٍ مِنْ تَلْبِينَةٍ فَطَبِخَتْ، ثُمَّ صَنَعَ كَرِيمٌ فَصَبَّتِ التَّلْبِينَةَ عَلَيْهِا، ثُمَّ قَالَتْ: كُلْنِ مِنْهَا، فَإِنِّي سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «التَّلْبِينَةُ مِجْمَعَةٌ لِفُؤَادِ الْمَرِيضِ، تَذْهَبُ بِنَبْضِ الْخُرْنِ»

صحيح مسلم (6371 / 4)

(6122) حَدَّثَنَا عَبْدُ اللَّهِ بْنُ شُعْبَةَ بْنِ اللَّيْثِ بْنِ سَعْدٍ، حَدَّثَنِي أَبِي، عَنْ جَدِّي، حَدَّثَنِي عَقِيلُ بْنُ خَالِدٍ، عَنْ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ، زَوْجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهَا كَانَتْ إِذَا مَاتَ الْمَيِّتُ مِنْ أَهْلِهَا فَاجْتَمَعَ لِذَلِكَ النِّسَاءِ، ثُمَّ تَقَرَّرْنَ إِلَّا أَهْلَهَا وَخَاصَّتَهَا أَمَرَتْ بِرِيمَةٍ مِنْ تَلْبِينَةٍ فَطَبِخَتْ، ثُمَّ صَنَعَ كَرِيمٌ فَصَبَّتِ التَّلْبِينَةَ

عَلَيْهَا، ثُمَّ قَالَتْ: كُلَّنْ مِنْهَا، فَإِنِّي سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «التَّلْبِيسَةُ مُجَمَّةٌ لِقَوَادِ الْمَرِيضِ، تَذْهَبُ بَعْضَ الْحَزَنِ»

سنن ابن ماجه (2/ 0411)

حَدَّثَنَا عَلِيُّ بْنُ أَبِي الْخَصْبِيِّ قَالَ: حَدَّثَنَا وَكِيعٌ عَنْ أَهَمَّ بْنِ نَابِلٍ عَنْ امْرَأَةٍ مِنْ قُرَيْشٍ يُقَالُ لَهَا كَلْتُمْ، عَنْ عَائِشَةَ، قَالَتْ: قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «عَلَيْكُمْ بِالْبَيْضِ النَّافِعِ التَّلْبِيسَةِ» يَعْنِي الْحَسَاءَ قَالَتْ: «وَكَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا اشْتَكَى أَحَدٌ مِنْ أَهْلِهِ، لَمْ تَزَلِ الْبُيُوتُ عَلَى النَّارِ، حَتَّى يَنْتَهِيَ أَحَدٌ طَرَفِيهِ، يَعْنِي يَبْرَأُ أَوْ يَمُوتُ»

[4] Ibid

T-SHIRTS WITH ISLAMIC SLOGANS

Q: I recently bought T-shirt's from the market because i was really impressed and that T-shirt's was the Islamic T-shirt's means that on the front of them there is some Islamic quotes written.so i want to know that are they permissible to wear or not. Kindly tell the conditions in which they r permissible or not to wear like are they allowed to wear in bathrooms and like that odd places.

Some quotes written on these t-shirts are:

- 1-ALLAH IS THE SOVEREIGN.
- 2-MUHAMMAD(PBUH) THE LAST GUIDE FOR HUMANITY.
- 3- FEAR ALLAH LOWER YOUR GAZE.
- 4-ISLAM MAKES ME HUMBLE.
- 5-ISLAM HAS COME TO DOMINATE. 5-KEEP SMILING ITS SUNNAH. 6-HUMANS GET AND FORGET ALLAH GIVES AND FORGIVES. Etc...

NOTE: Quotes are written in English not in Arabic or any other language.

A: In principle, anything with the name of Allah and His Messenger (salla Allahu 'alaihi wa sallam) written on it deserves respect immaterial of which language it is written in.

From a practical point of view, a t-shirt bearing the name of Allah or His Messenger (sall Allahu 'alaihi wa sallam) inadvertently will be disrespected. For example,

- When relieving one's self
- Throwing the shirt with other dirty clothes in the laundry basket
- Flinging the shirt to a side when going to sleep, etc.

ولو كتب على خاتمه اسمه أو اسم أبيه أو ما بدا له من أسماء الله تعالى نحو قوله: حسبنا الله ونعم الوكيل أو ربي الله أو نعم القدير الله فإنه لا بأس به (فتاوى قاضي خان ج ٣-ص ٨٣٣، قديمي كتب خانه)

فتاوى محمودية ج ١-ص ٧١٢-١٧٢، فاروقية

سئل الفقيه أبو جعفر عمن كان في كمة كتاب فجلس يقول فيكره ذلك قال إذا أدخله مع نفسه الغلاء يكره وإن اختار لنفسه مبالا طاهرا في مكان طاهر لا يكره وعلى هذا إذا كان في جيبه دراهم مكتوب فيها اسم الله أو شيء من القرآن فأدخلها مع نفسه المخرج يكره وعلى هذا إذا كان عليه خاتم وعليه شيء من القرآن مكتوب أو كتب عليه اسم الله تعالى فدخل معه يكره ولو اتخذ لنفسه مبالا طاهرا في مكان طاهر لا يكره (التاتارخانية ج ٨١-ص ٧٦، مكتبة زكريا) فتاوى حقانية ج ٢-ص ٦٦٦، جامعة دار العلوم حقانية فتاوى محمودية ج ٣-ص ٦٣٥، فاروقية آب كي مسائل اور ان كا حل ج ٢-ص ٢٩٠، مكتبة لدهيانوي

DISPOSING LITERATURE WITH THE NAMES OF ALLAH

Q: I used to work in an Arab engineering office and we had many papers with the names such as Abd Allah and Abd ar Rahmaan. To dispose of them I would throw them in the bin without knowledge istaghfir Allah wa naudhu bi Allah. I have read online that it is mentioned in the fiqh books in the chapters of Ridda (leaving Islam)

to throw anything with the name of Allah in the bin.

I also read: That the person who makes a statement of kufr without knowledge that it is kufr, then there is a difference of opinion but the fatwa position is that he did not make ridda because he was jaahil (Ibn Abidin, Hashiya). So does this statement of Hadhrat Ibn Abidin Rahimahu Allah also count for actions like the action that I did before. I feel horrible. Also, I see so many people in the Ummah make this mistake of throwing in the bin names of people with a part which contains Allah, like abd Allah, so I can't imagine that all of them would be murtadd. What is the hukm of my action, did I leave Islam by it?

A: The name of Allah Ta'ālā deserves utmost respect. If there is a need to dispose of material having the name of Allah on it, it should be erased or wrapped in a cloth and buried or placed in flowing water; for example, in the sea or river. To dispose material containing the name of Allah in a bin is indeed disrespectful and sinful. In the enquired case, the practice does not constitute sin as it was not done as a form of humiliation. Make Tawba from your act and exercise caution in the future.

Nevertheless, one is not rendered a kāfir by disposing the names of Allah without any intention or form of degrading.

قال صاحب الدر: الكتب التي لا ينتفع بها يحى عنها اسم الله وملائكته ورسله ويحرق الباقي ولا بأس بأن تلقى في ماء جار كما هي أو تدفن وهو أحسن كما في الأنبياء

وفي رد المحتار: (قوله كما في الأنبياء) والدفن أحسن كما في الأنبياء والأولياء إذا ماتوا، وكذا جميع الكتب إذا بليت وخرجت عن الانتفاع بها. يعني أن الدفن ليس فيه إخلال بالتعظيم، لأن أفضل الناس يدفنون. وفي الذخيرة: المصحف إذا صار خلقاً وتعذر القراءة منه لا يحرق بالنار إليه أشار محمد وبه نأخذ، ولا يكره دفنه، وينبغي أن يلف بخرقه طاهرة، ويلحد له لأنه لو شق ودفن يحتاج إلى إهالة التراب عليه، وفي ذلك نوع تحقير إلا إذا جعل فوقه سقف وإن شاء غسله بالماء أو وضعه في موضع طاهر لا تصل إليه يد محدث ولا غبار، ولا قدر تعظيمها لكلام الله عز وجل

[رد المحتار، كتاب الحظر والإباحة، فصل في البيع، ج ٦، ص ٢٢٤، سعيد]

ولا يجوز لف شيء في كاغذ فيه فقه، وفي كتب الطب يجوز، ولو فيه اسم الله أو الرسول فيجوز محوه ليلف فيه شيء، ومحو بعض الكتابة بالريق يجوز، وقد ورد النهي في محو اسم الله بالزقاق

[الرد المختار، مع رد المحتار، كتاب الطهارة، سنن الغسل، ج ١، ص ٨٧١، سعيد]

ولا يجوز لف شيء في كاغذ فقه ونحوه وفي كتب الطب يجوز (قوله ونحوه) الذي في المنح ونحوه في الهندية، ولا يجوز في شيء في كاغذ فيه مكتوب من الفقه، وفي الكلام الأول أن لا يفعل وفي كتاب الطب يجوز، ولو كان فيه اسم الله تعالى أو اسم النبي - عليه الصلاة والسلام - يجوز محوه ليلف فيه شيء ومحو بعض الكتابة بالريق، وقد ورد النهي عن محو اسم الله تعالى بالبصاق، ولم يبين محو كتابة القرآن بالريق هل هو كاسم الله تعالى أو كغيره [رد المحتار، كتاب الحظر والإباحة، فصل في البيع، ج ٦، ص ٦٨٣، سعيد]

[امداد الفتاوى، كتاب الحظر والإباحة، ج ٤، ص ٥٥، مكتبة دار العلوم كراتشي]

[احسن الفتاوى، كتاب الحظر والإباحة، ج ٨، ص ٣١، سعيد]

[خير الفتاوى، ما يتعلق بالقرآن، ج ١، ص ٢٤٢، مكتبة امدادية]

[تنبه] في البحر والأصل أن من اعتقد الحرام حلالاً فإن كان حراماً لغيره كمال الغير لا يكفر وإن كان لعينه فإن كان دليلاً قطعياً ككفر، وإلا فلا وقيل التفصيل في العالم أما الجاهل فلا يفرق بين الحرام لعينه ولغيره وإنما الفرق في حقه أن ما كان قطعياً ككفر به وإلا فلا فيكفر إذا قال الخمر ليس بحرام وعماه فيه... (قوله قال في البحر إلخ) سبب ذلك ما ذكره قبله بقوله وفي جامع الفصولين، روى الطحاوي عن أصحابنا لا يخرج الرجل من الإيمان إلا جحد ما أدخله فيه ثم ما يتقن أنه ردة يحكم بها وما يشك أنه ردة لا يحكم بها إذ الإسلام الثابت لا يزول بالشك مع أن الإسلام يعلو وينبغي للعالم إذا رفع إليه هذا أن لا يبادر بتكفير أهل الإسلام مع أنه يقضي بصحة إسلام المكره... وفي الفتاوى الصغرى: الكفر شيء عظيم فلا أجعل المؤمن كافراً متى وجدت رواية أنه لا يكفر اهـ وفي الخلاصة وغيرها: إذا كان في المسألة وجوه توجب التكفير ووجه واحد يمنعه فعلى المفتي أن يميل إلى الوجه الذي يمنع التكفير تحسناً للظن بالمسلم [رد المحتار، كتاب الجهاد، باب المرتد، ج ٤، ص ٣٢٢، سعيد]

CHARITY ORGANIZATION

Q: We have a charity registered organization run by a renowned Muslim doctor whom we have high regard for. He is collecting zakat donations. My understanding is that Zakat can only benefit Muslims. This organization like others has many projects including for example a medical Centre in Pakistan and other countries, providing hip replacements and other treatment. They utilize zakat funds mainly for the treatment of the poorly and also sometimes send help with foods and other items in places of natural disaster. My questions regarding giving zakat to this organization are:

1. Is it true that Zakat funds can only benefit Muslims?
2. If when we give to such an organization and highlight to them at the point of giving that these are Zakat funds and that they should benefit Muslims, is the giver absolved if the organization benefits others with these funds.

3. Do organizations have to identify a Muslim at the point of dispensing a service like medical or food as above with zakat funds?

A : Our hearts fill with happiness to see the good works your organization is providing to destitute Muslims across the globe. We are hopeful for the Infinite Mercy of Allâh that by answering the queries below in sequence, that accordingly we too will share in some of the great rewards that Allâh has in stall for those who have devoted their lives selfishly to works of charity.

1- In principle, Zakat is not a religious tax. It is rather an act of worship, and as such can only come to the benefit of Muslims. Neither can it be spend for the benefit of buildings, such as Masjid, hospitals and schools neither can it be given to pay towards service fees of Doctors etc. nor can it be given to non-Muslims . Any funds of Zakat spend on the needs of non-Muslims and/or buildings, no matter the pressing need of those inflicted, will not deemed to be fulfilled as a pure act of worship and will have to be discharged again.

2- If someone or an organisation is appointed as an agent on behalf of the principal to discharge Zakat, then in pure negligence he in turn dispensed it in an incorrect avenue then such Zakat will not be deemed fulfilled. In the case that the principal exhausted all reasonable means to procure a competent agent to discharge his Zakat, then in the case of negligence the principal will not be sinful for the Zakat having failed to be discharged as a pure act of worship.

The sin will rather rest with the agent due to his negligence in this regard. Since the Zakat has not been fulfilled, the onus therefore will rest with the agent to inform the principal of his act of negligence so that the principal can discharge his Zakat once again, but this time correctly. In the inquired case, it is very important to realize that or-

ganisations due to the overwhelming responsibilities that they have to attend to against all odds cannot realistically speaking guarantee spending Zakat in it's correct avenues UNLESS they are closely guided by high calibre 'Ulema and run by a very efficient management. To give you an idea of the intricacies involved, in this day and age, even Madaaris are guilty of mismanagement of Zakat funds.

3- A predominant thought is sufficient to regard the person as a Muslim if it is based on a concrete fact, such as a Muslim name, 90% of the people in the area are Muslim, the person dons a Sunnah beard, topi or the person when asked if he is Muslim replies in the affirmative.

(iruduQ (ص: 32)

ولا يجوز أن يدفع الزكاة إلى ذمي
ولا يبنى بها مسجد ولا يكفن بها ميت ولا يشتري بها رقبة تعتق ولا تدفع إلى غني

بداية المبتدي (ص: 83)

قال أبو حنيفة ومحمد رحمهما الله إذا دفع الزكاة إلى رجل يظنه فقيراً ثم بان أنه غني أو هاشمي أو كافر أو دفع في ظلمة فبان أنه أبوه أو ابنه فلا إعادة عليه وقال أبو يوسف عليه إعادة ولو دفع إلى شخص ثم علم أنه عبده أو مكاتبه لا يجزئه

الأصل المعروف بالمبسوط 981 (4 / 3)

فأما إذا أعطى رجلاً يرى أنه فقير ولم يسأله ولم يأت من أمره أمر يدل على أنه فقير فظن أنه فقير فأعطاه أو أعطاه على غير ظن حضره ثم ظن بعد العطية أنه فقير ثم علم بعد ذلك أنه غني لم يجزه ما أعطاه لأنه أعطاه على غير مسألة ولا دلالة

الأصل المعروف بالمبسوط 981 (5 / 3)

كان الرجل سألته وأخبره أنه محتاج فأعطاه ثم علم بعد ذلك أنه غني فإن أبا حنيفة قال في ذلك يجزيه زكاته وكذلك قول محمد وأما في قول أبي يوسف فلا يجزيه إذا علم أنه غني وقال هو بمنزلة رجل توضع له ماء غير طاهر ثم صلى وهو لا يعلم فهو يجزيه ما لم يعلم فإذا علم أعاد الوضوء وأعاد الصلاة وقال محمد لا تشبه الصلاة الصدقة لأن هذا لا تعد صلاته صلاة لأنه صلى على غير وضوء والمتصدق صدقته جائزة عليه ألا ترى أنه لو أراد أن يأخذها من الذي أعطاه إياه لم يكن له ذلك في الحكم لأنها صدقة نافذة جائزة لا رجوع فيها ولو كان له أن يأخذها من المتصدق عليه لأنها ليست بصدقة كان هذا قياس الصلاة بغير وضوء لأن الصلاة بغير وضوء ليست بصلاة فينبغي أن تكون هذه ليست بصدقة وينبغي لصاحبها أن يأخذها من المتصدق عليه فإذا كان لا يقدر على أخذها منه كانت صدقة تامة فكيف يغرمها صاحبها مرتين ولم يكن على صاحبها أكثر من الذي صنع وقد وافقنا أبو يوسف أن الصدقة لا ترد على صاحبها ولكنها نافذة للمتصدق

CONDITIONS FOR TRUE DREAMS

Q: What are the conditions for a dream to be considered true?

A: The science of interpreting dreams is a rather difficult and intricate field that requires one to have in depth knowledge of the different sciences of Dīn. Generally, dreams do not materialise in reality as exactly seen in one's sleep. They tend to hold a hidden meaning which needs correct interpretation in light of the Qur'an and Hadith. This is why it is not everybody's job to interpret dreams. The mere knowledge of the different factors that indicate towards the truth of a dream is not sufficient for one to interpret a dream. Hereunder are a few conditions that one should fulfil before attempting interpretation of dreams:

- Should be knowledgeable regarding the Qur'an and Hadith.
- Should have an insight in the linguistics of the Arabic language.
- Should understand the conditions and temperaments of the people seeking an interpretation.
- Should be knowledgeable regarding the principles of interpreting dreams.
- Should be spiritually upright and have good character.
- Should be truthful.
- May need to take into consideration the present conditions.

Further, not all dreams hold a message and thus cannot be interpreted. Rasullullah Sallallahu 'Alayhi Wa Sallam said: "Dreams are of three types: 1) Good visions are glad tidings from Allah, 2) A terrifying vision caused by the devil, 3) Visions of a person's thoughts." It is only the first category of dreams that are meaningful.

The rest are merely visions that revolve around what a man thinks during the day or are frightening dreams infused by Shay'tān in the subconscious mind of a person. Such dreams are meaningless.

As far as interpreting the dreams is concerned, there are no stipulated conditions for ascertaining the truth of a dream. Rather, there are a number of signs and factors that indicate towards a dream being true. However, the truth and falsehood of dreams cannot be decisively stated from merely looking at these signs and factors. It may happen such that despite the signs and factors being present, the interpretation of the dream may not materialise in real life.

Some of these signs are:

- A number of people see the same dream.
- The same dream is seen repeatedly by the same person.
- The dreams seen in the later portion of the night.
- Dreams seen in times closer to Qiyāmah, when men of knowledge will be scarce.
- Dreams seen at such a time of the year when the length of the day and night are equal i.e. in spring and autumn (March and September).
- Dreams seen by a truthful person.

تعبير الرؤيا لابن سيرين مع الترجمة بالأردية، ص 5 [مدينة ببلشنغ كمبني]

اعلم وفقني الله وإياك إلى طاعته أن الرؤيا لما كانت جزءاً من النبوة لزم أن يكون المعبر عالماً بكتاب الله تعالى، حافظ لحديث رسول الله صلى الله عليه وسلم وعلى آله، خبيراً بلسان العرب واشتقاق الألفاظ، عارفاً بهيئات الناس، ضابطاً لأصول التعبير، غفيف النفس، طاهر الأخلاق، صادق اللسان، ليقوفه الله لما فيه الصواب ويهدبه لمعرفة معارف أولي الأبواب فإن الرؤيا قد تعبر باختلاف أحوال الأزمنة والأوقات....

صحيح مسلم (142/1) [قديمي]

(3622) حَدَّثَنَا مُحَمَّدُ بْنُ أَبِي عُمَرَ الْمُتَّقِيُّ، حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ، عَنْ الْيُوبِ السَّخْتِيَانِيِّ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ، عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: "إِذَا اقْتَرَبَ الزَّمَانُ لَمْ تَكُنْ رُؤْيَا الْمُسْلِمِ تَكْذِبُ، وَأَصْدَقُكُمْ رُؤْيَا أَصْدَقُكُمْ حَدِيثًا، وَرُؤْيَا الْمُسْلِمِ جُرْءٌ مِنْ خَمْسٍ وَأَرْبَعِينَ جُرْءًا مِنَ النَّبُوءَةِ، وَالرُّؤْيَا ثَلَاثَةٌ: فَرُؤْيَا الصَّالِحَةِ بُشْرَى مِنَ اللَّهِ، وَرُؤْيَا تَحْزِينٍ مِنَ الشَّيْطَانِ، وَرُؤْيَا مِمَّا يُحَدِّثُ النَّفْسُ نَفْسَهُ، فَإِنْ رَأَى أَحَدُكُمْ مَا يَكْرَهُ فَلْيَتَّقِمْ فَلْيَصِلْ. وَلَا يُحَدِّثْ بِهَا النَّاسَ " قَالَ: «وَأَجِبَ الْقَيْدَ وَأَكْرَهُ الْحُلَّ وَالْقَيْدُ ثَبَاتٌ فِي الدِّينِ» فَلَا أَذَى هُوَ فِي الْحَدِيثِ أَمْ قَالَهُ ابْنُ سِيرِينَ "

Jawāhir al-Fiqh, Vol 2, Pg 171 (Maktabah Dar al-'Ulūm Karachi)

سنن الترمذي (35/2) [أبي أيوب سعيد]

4722 -حدثنا قتيبة حدثنا ابن لبيبة عن دراج عن أبي الهيثم عن أبي سعيد: عن النبي صلى الله عليه وسلم أصدق الرؤيا بالأسفار

فيض الباري على صحيح البخاري (6/ 644)

قوله: (إذا اقترَبَ الرُّؤْيَا لم تَكُذِبْ رُؤْيَا الْمُؤْمِنِ ...) أي إذا اقترَبَتْ الساعةُ ... إلخ، وذلك لأنَّ المطلوب الآن إخفاءُ المغيبات، ثُمَّ تَلَعَقُدُ المشيئةُ بِكُشْفِهَا عند إِبَانِ الساعةِ، وكذلك الله يَفْعَلُ ما يشاء، وَيَحْكُمُ ما يُريد.

معالم السنن (4/ 931) [المطبعة العلمية - حلب]

قال أبو داود: حدثنا قتيبة بن سعيد حدثنا عبد الوهاب عن أيوب عن محمد، عن أبي هريرة عن النبي صلى الله عليه وسلم قال: إذا اقترَبَ الزمان لم تَكُذِبْ رؤيا المؤمن تكذب فأصدقهم رؤيا أصدقهم حديثاً.

قال الشيخ: في اقتراب الزمان قولان أحدهما أنه قرب زمان الساعة ودنو وقتها.

والقول الآخر أن معنى اقتراب الزمان اعتداله واستواء الليل والنهار والمعبرون يزعمون أن أصدق الرؤيا ما كان في أيام الربيع ووقت اعتدال الليل والنهار.

شرح صحيح البخاري لابن بطال (9/ 735) [مكتبة الرشيد]

وقوله عليه السلام: (إذا اقترَبَ الزمان لم تَكُذِبْ رؤيا المؤمن)، فمعناه - والله أعلم - إذا اقترَبَت الساعة وقبض أكثر العلم ودرست معالم الديانة بالهرج والفتنة، فكان الناس على فترَةٍ من الرسل يحتاجون إلى مذكر ومجدد لما درس من الدين كما كانت الأمم قبلنا تذكر بالنبوة، فلما كان نبينا محمد عليه السلام خاتم الرسل وما بعده من الزمان ما يشبه الفترة عوضوا مما منع من النبوة بعده بالرؤيا الصادقة التي هي جزء من ستة وأربعين جزءاً من النبوة الآتية بالنبشير والإنذار. وقد ذكر أبو سليمان الخطابي في غريب الحديث عن أبي داود السجستاني أنه كان يقول في تأويل قوله عليه السلام: (إذا تقارب الزمان لم تَكُذِبْ رؤيا المؤمن تكذب). قال: تقارب الزمان هو استواء الليل والنهار قال والمعبرون يزعمون أن أصدق الأزمان لوقوع التعبير وقت انبثاق الأنوار ووقت بنع الثمار وإدراكها وهما الوقتان اللذان يتقارب الزمان فيهما ويعتدل الليل والنهار. قال المؤلف: والتأويل الأول هو الصواب الذي أراده النبي عليه السلام لأنه قد روى مرفوعاً عنه روى معمر، عن أيوب، عن ابن سيرين، عن أبي هريرة، عن النبي عليه السلام أنه قال: (في آخر الزمان لا تكذب رؤيا المؤمن وأصدقهم رؤيا أصدقهم حديثاً). قال المؤلف: وأما قول ابن سيرين: وأنا أقول هذه الأمة، فتأويله والله أعلم أنه ما كان عنده معنى قوله عليه السلام: (رؤيا المؤمن جزء من ستة وأربعين جزءاً من النبوة). ويراد به رؤيا الرجل الصالح لقوله عليه السلام: (الرؤيا حسنة يراها الرجل الصالح جزء من ستة وأربعين جزءاً من النبوة). قال: (إذا اقترَبَ الزمان لم تَكُذِبْ رؤيا المؤمن) خشي ابن سيرين أن يتأول معناه أن عند تقارب الزمان لا تصدق إلا رؤيا الصالح المستكمل للإيمان خاصة، فقال: وأنا أقول هذه الأمة. يعني تصدق رؤيا هذه الأمة كلها صالحها وفاجرها ليكون صدق رؤياهم زاجرة لهم وحجة عليهم؛ لدروس أعلام الدين وطموس آثاره يموت العلماء وظهور المنكر، والله أعلم.

شرح النووي على مسلم (1/ 142) [إقدي]

(إذا اقترَبَ الزَّمانُ لَمْ تَكُذِبْ رُؤْيَا المُسْلِمِ تَكْذِبُ) قَالَ الْخَطَّابِيُّ وَغَيْرُهُ قِيلَ الْمُرَادُ إِذَا قَارَبَ الرُّؤْيَا إِذَا قَارَبَ الْقِيَامَةَ وَالْأَوَّلُ أَشْهُرُهُ عِنْدَ أَهْلِ غَيْرِ الرُّؤْيَا وَجَاءَ فِي حَدِيثٍ مَا يُؤَيِّدُ الثَّانِي وَاللهُ أَعْلَمُ قَوْلَهُ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ (وَأَصْدَقُكُمْ رُؤْيَا أَصْدَقُكُمْ حَدِيثًا) ظَاهِرُهُ أَنَّهُ عَلَى إِطْلَاقِهِ وَحَكِّ الْقَاضِي عَنْ بَعْضِ الْعُلَمَاءِ أَنَّ هَذَا يَكُونُ فِي آخِرِ الزَّمانِ عِنْدَ انْقِطَاعِ الْعِلْمِ وَمَوْتِ الْعُلَمَاءِ وَالصَّالِحِينَ وَمَنْ يُسْتَفْضَأُ بِقَوْلِهِ وَعَلَيْهِ قَبْعَةُ اللهِ تَعَالَى جَاوِزًا وَعَوْضًا وَمَنْبَئُهَا تَهْمُ وَالْأَوَّلُ أَظْهَرُ لِأَنَّ غَيْرَ الصَّادِقِ فِي حَدِيثِهِ يَتَطَرَّقُ الْخَلَلُ إِلَى رُؤْيَاهُ وَجَوَازِيَّتِهِ إِثَابًا

صحيح مسلم (1/ 142) [إقدي]

(3622) حَدَّثَنَا مُحَمَّدُ بْنُ أَبِي عُمَرَ الْمُكَلِّيُّ حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ، عَنْ أَيُّوبَ السَّخْتِيَانِيِّ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: "إِذَا اقْتَرَبَ الزَّمانُ لَمْ تَكُذِبْ رُؤْيَا المُسْلِمِ تَكْذِبُ، وَأَصْدَقُكُمْ رُؤْيَا أَصْدَقُكُمْ حَدِيثًا، وَرُؤْيَا المُسْلِمِ جُزْءٌ مِنْ خَمْسٍ وَأَرْبَعِينَ جُزْءًا مِنَ النَّبُوءَةِ، وَالرُّؤْيَا ثَلَاثَةٌ: فَرُؤْيَا الصَّالِحَةِ بُخِّرَتْ مِنْ اللهِ، وَرُؤْيَا تَحْزِينٍ مِنَ الشَّيْطَانِ، وَرُؤْيَا مِمَّا يَحْدِثُ الْمَرْءَ نَفْسَهُ، فَإِنْ رَأَى أَحَدُكُمْ مَا يَكْرَهُ فَلْيُصَلِّ، وَلَا يَحْدِثْ بِهَا النَّاسَ". قَالَ: "وَأَجِبَ الْقَيْدَ وَأَكْرَهَ الْغُلَّ وَالْقَيْدَ ثَبَاتٌ فِي الدِّينِ" فَلَا أَذْرِي هُوَ فِي الْحَدِيثِ أَمْ قَالَهُ ابْنُ سِيرِينَ "

WEATHER FORECASTING

Q: Does weather forecasting come under the heading of astrology or claiming to know the unseen? There are some weather sites on the internet which forecast the weather that is expected in the next 5-10 days. Is it permissible for me to visit them? I am asking this question because I am afraid that they may be claiming to have knowledge of the unseen or it may be a kind of astrology, in which case it is haraam for me to visit them.

A: Weather forecasting does not fall under the category of claiming knowledge of the ghayb because:

1. It is based on signs and empirical evidence, while true knowledge of ghayb is not gained via any means.
2. It is conjectural and speculative, while knowledge of ghayb is certain and definitive.

One may follow the weather forecasts if he believes the signs for the weather conditions – like clouds gathering, wind direction etc. – are mere means and not the true cause as used to be believed in the time of Jāhiliyyah.

واعلم أن للناس في مسألة الغيب كلمات غير منقحة والتحقيق أن الغيب ما غاب عن الحواس والعلم الضروري والعلم الاستدلالي وقد نطق القرآن بنفي علمه عمن سواه تعالى فمن ادعى أنه يعلمه كفر ومن صدق المدعي كفر وأما ما علم بحاسة أو ضرورة أو دليل فليس بغيب ولا كفر في دعواه ولا في تصديقه على الجزم في اليقيني والظن في الظني عند المحققين.

وبهذا التحقيق اندفع الإشكال في الأمور التي يزعم أنها من الغيب وليست منه لكونها مدركة بالسمع أو البصر أو الضرورة أو الدليل

فأحدها إخبار الأنبياء لأنها مستفادة من الوحي ومن خلق العلم الضروري فيهم أو من انكشاف الكوائن على حواسهم

ثانيها خبر الولي لأنه مستفاد من النبي أو من رؤيا صالحة أو من إلهام إلهي أو من النظر في اللوح المحفوظ وهو ثابت من أهل الكشف وإن منعه بعض الفقهاء

ثالثها إخبار المحاسب بالكسوف والخسوف لأنه بدلائل هندسية قطعية

رابعها إخبار المنجم والرمال لأن النجوم والرمال علمان استدلاليان منزلان على بعض الأنبياء ثم اندرسا وخط الناس فيهما فمن استدل بقاعدة نبوية أصاب في الخبر

خامسها خبر الكاهن لأنه مما يخبره الجن عن مشاهدة أو سماع من الملائكة الذين عرفوا الكوائن المستقبلية بالوحي

تم نقول قد نطق كثير من الأحاديث وأقوال السلف بكفر المنجم والكاهن ومن يصدقهما وذكر غير واحد من المحققين أن التكفير خاص بمن يدعي علم الغيب أو يزعم

النجوم مدبرة بالاستقلال أو يزعم الجن عالمة بالغيب قلت: ومع هذا ليس الاشتغال بالنجوم والكهانة وتصديقهما من فعل الصالحين ولا شك أن فيهما إخلالا بعقائد ضعفاء المسلمين لزعمهم أن المخبر عالم بالغيب على أن الكاهن يصعب أن يسلم إيمانه لاستمداده من الشياطين فاحفظ هذا التحقيق فإنه من خواص مؤلفاتنا (التبراس شرح شرح العقائد، مكتبة حقاينة، ص ٤٠٣٤٣) وأما ظن الغيب فلم يتعرض فيه من الشرع لنفيه ولا لإثباته فقد يجوز أن يظن المنجم أو صاحب خط الرمل أو نحو هذا شيئا مما يقع في المستقبل، فيقع على ما ظنه، فكأن ذلك ظنا صادقا إذا كان عن موجب عادي يقتضي ذلك الظن وليس يعلم...ثم أعلم أن أخذ الأجرة والجعل على ادعاء علم الغيب أو ظنه لا يجوز بالإجماع على ما حكاه أبو عمر بن عبد البر (المفهم، ج ١ ص ٦٥١)

فمن ادعى علم بعض الحوادث الغائبة بوحى من أمهله أو يكشف من ذوى الكرامات فهو صادق ودعواه جائزة لأن ما اختص به تعالى هو الغيب المطلق على أن ما يدعيه العبد ليس غيبا حقيقة لأنه إما يكون بإعلام من الله تعالى كما مر وكذا لو ادعاه أحد من أحاد الناس مستندا في ذلك إلى أمارة نصها تعالى على ذلك، فقد قال الإمام الميرغني صاحب الهداية في كتابه مختارات النوازل: أما علم النجوم فهو في نفسه حسن غير مذموم إذ هو قسمان: حساني وإنه وقد نطق به الكتاب، قال تعالى: والشمس والقمر بحسبان أي سرهما بحساب، واستدلاني بسير النجوم وحركة الأفلاك على الحوادث بقضاء الله تعالى وقدره وهو جائز كاستدلال الطبيب بالنفض على الصحة والمرض، ولو لم يعتقد بقضاء الله تعالى أو ادعى علم الغيب لنفسه يكفر، ثم تعلم علم النجوم مقدار ما يعرف به موافقة الصلاة والقبلة لا بأس به انتهى، ومفهومه أن تعلم الزائد على ذلك ما يستدل به على الحوادث فيه بأس لأنه مكروه لما فيه من إيقاع العامة في الشك لعدم علمهم بأنه إنما علم ذلك بسبب عادة نصبه الله تعالى لذلك أو لما فيه من خوف الوقوع في اعتقاد تأثير النجوم في تلك الحوادث أو لما فيه من إظهار ما أحب الله خفاءه فإنه لو أحب إظهاره لنصب عليه علامة ظاهرة كما في الأمور التي جعل الله تعالى لها أسبابا ظاهرة يعلمها عامة الناس فلم يخف الله تعالى ما أخفاها منها إلا لحكم بآهرة فالتوصل إلى إظهاره والإطلاع عليه إخلال بتلك الحكم...قال في الفتاوى الحادية...فإن خلا من هذين فلا كفر بل ولا إثم إن قال علمت ذلك بواسطة القرينة والعادة الإلهية أو نحو ذلك انتهى (رسائل ابن عابدين، ج ٢ ص ٥٤١٣)

قال في كتابه الزواجر: المنهي عنه من علم النجوم هو ما يدعيه أهلها من معرفة الحوادث الآتية في مستقبل الزمان كمجيئ المطر ووقوع الثلج وهبوب الريح وتغير الأسفار ونحو ذلك يزعمون أنهم يدركون ذلك بسير الكواكب...فأما من قال أن الإقتران والإفتراق هو كذا جعله الله تعالى علامة مقتضى ما طردت به العادة الإلهية على وقوع كذا وقد يتخلف فإنه لا إثم عليه بذلك (المصدر السابق)

اتضح لك مما قررنا من جواز الإطلاع على بعض الأمور الغيبية بمعجزة أو كرامة أو أمارة وعلامة عادية بتقدير الله تعالى، أما لو ادعى ذلك من نفسه استقلالا أو بطريق إخبار الجن له ذلك زاعما علمهم الغيب أو بطريق الاستناد إلى تأثير الكواكب فهو كافر، وأما إذا أطلق وقال سيقع في اليوم الفلاني كذا وكذا فينبغي النظر في حال القائل (المصدر السابق، ج ٦١٤)

قال رسول الله صلى الله عليه وسلم: أصبح من عبادي مؤمن بي وكافر، فأما من قام مطرنا بفضل الله ورحمته، فذلك مؤمن بي وكافر بالكوكب، وأما من قال: مطرنا بنوء كذا وكذا، فذلك كافر بي ومؤمن بالكوكب (متفق عليه)

قال الإمام أبو العباس القرطبي في شرحه: ظاهره أنه الكفر الحقيقي لأنه قابل به المؤمن الحقيقي، فيحمل على من اعتقد أن المطر من فعل الكواكب وخلقا لا من فعل الله تعالى، كما يعتقد بعض جهال المنجمين والطباعين والعرب، فأما من اعتقد أن الله تعالى هو الذي خلق المطر وأختره ثم تكلم بذلك القول فليس بكافر ولكنه مخطئ من وجهين: أحدهما أنه خالف الشرع فإنه قد حذر من ذلك

WHY CAN'T WE GO TO JANNAH FOR FREE?

Q: Why do we have to go through hardships to get to jannah? Why is it not free? ALLAH is not in need so what is the reason for hardships?

A: Before answering your question, it is important to understand that as simple creations of Allāh the Almighty, we are unable to truly encompass divine truths and wisdoms behind the creation of

the universe. We are only imparted the knowledge that is transmitted to us from His beloved messengers (‘alayhimus salām).

Before the birth of humankind and Ādam (‘alayhis salām) as their father, a discourse took place between Allāh the Almighty and His angels:

وَإِذْ قَالَ رَبُّكَ لِلْمَلَائِكَةِ إِنِّي جَاعِلٌ فِي الْأَرْضِ خَلِيفَةً قَالُوا أَتَجْعَلُ فِيهَا مَنْ يُفْسِدُ فِيهَا وَيَسْفِكُ الدِّمَاءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ قَالَ إِنِّي أَعْلَمُ مَا لَا تَعْلَمُونَ

(Remember) when your lord said to the angels, “I am about to place a deputy on Earth.” The angels said, “Will you place on Earth someone who will cause corruption there and spill blood, whereas we glorify Your praises and proclaim Your purity?” Allāh said, “Indeed, I know that which you do not know.”

As one of the earliest creations of Allāh Ta‘ālā, the angels were created for the sole purpose of worshipping Allāh Ta‘ālā whilst residing in the upper realms within the heavens. It was Allāh the Almighty’s plan to bring another creation that had the capacity to surpass even the rank of the angels. While angels were created with the attribute of pure servitude to Allāh the Almighty, mankind was created with the attribute of freewill. Man was sent in a world where he would be tried and tested so that he can use this freewill and voluntarily turn towards Allāh the Almighty knowing that he has the ability to disobey Him. It is this inherent quality known as taklif that potentially propels him past the level of angels and marks him as ashraf al-makhluqāt (the most noble of all creations).

Put more simply, the ability to endure hardships in this world and take on life as a test from Allāh Ta‘ālā is a distinguishing quality of mankind that makes them special in the eyes of Allāh Ta‘ālā. Giving us a free ticket to jannah without any test would defeat the purpose of our creation. If such were the case, we would have never been

brought into creation as the angels already exist as a creation given “a free ticket into jannah.” Furthermore, allowing full entrance into jannah to any and all without distinguishing the evil ones from the good is against the divine attribute of ‘adal (justice). Is it fair that one who commits murder and spends his life as a thief is given the same treatment as the one who exercised self control and lived an honest life without infringing on the rights of others? Is it fair that those who disbelieve and commit evil deeds are granted entrance into paradise for doing absolutely nothing to earn it? Allāh Ta’ālā says in the Holy Qur’ān:

أَحْسِبَ النَّاسُ أَنْ يُتْرَكُوا أَنْ يَقُولُوا آمَنَّا وَهُمْ لَا يُفْتَنُونَ، وَلَقَدْ فَتَنَّا الَّذِينَ مِنْ قَبْلِهِمْ فَلَيَعْلَمَنَّ اللَّهُ الَّذِينَ صَدَقُوا وَلَيَعْلَمَنَّ الْكَاذِبِينَ، أَمْ حَسِبَ الَّذِينَ يَعْمَلُونَ السَّيِّئَاتِ أَنْ يَسْبِقُونَا سَاءَ مَا يَحْكُمُونَ، مَنْ كَانَ يَرْجُوا لِقَاءَ اللَّهِ فَإِنَّ أَجَلَ اللَّهِ لَآتٍ وَهُوَ السَّمِيعُ الْعَلِيمُ، وَمَنْ جَاهَدَ فَإِنَّمَا يُجَاهِدُ لِنَفْسِهِ إِنَّ اللَّهَ لَغَنِيٌّ عَنِ الْعَالَمِينَ

Do people think that they will be left to say, “We believe” without being tested? We certainly tested those before them, and Allāh will definitely know those who are true and He will definitely know those who are liars. Do those who do evil think that they can escape Us? Evil indeed is the decision they take. Whoever yearns to meet Allāh the term of Allāh will certainly arrive. And He is the All Hearing, the All Knowing. Whoever strives, strives only for himself (i.e. his own benefit), Allāh is independent of the entire universe.

It should be clear from above that the divine plan for creation serves only to benefit us and does not benefit Allāh in the least. He is free from having such a need as He is independent and self-sufficient. We should be grateful to Allāh Ta’ālā for granting us an opportunity to struggle in this world so that we can attain his proximity in the hereafter.

فَمَنْ يَرِدِ اللَّهُ أَنْ يَهْدِيَهُ يَشْرَحْ صَدْرَهُ لِلْإِسْلَامِ وَمَنْ يَرِدْ أَنْ يَضِلَّهُ يَجْعَلْ صَدْرَهُ ضَيِّقًا حَرَجًا كَأَنَّمَا يَصْعَدُ فِي السَّمَاءِ كَذَلِكَ يَجْعَلُ اللَّهُ الرُّجُسَ عَلَى الَّذِينَ لَا يُؤْمِنُونَ، وَهَذَا صِرَاطُ رَبِّكَ مُسْتَقِيمًا قَدْ فَصَّلْنَا الْآيَاتِ لِقَوْمٍ يَذَّكَّرُونَ، لَهُمْ دَارُ السَّلَامِ عِنْدَ رَبِّهِمْ وَهُوَ وَلِيُّهُمْ بِمَا كَانُوا يَعْمَلُونَ

Whoever Allāh wishes to guide, He expands his bosom for Islam. Whoever He desires to send astray, He narrows and constricts his bosom as if he is (a person who is) climbing into the sky (having great difficulty breathing because of a lack of oxygen). Allāh places impurity (i.e. His punishment or curse) on those who do not have Imān. This is the straight path of your lord. We have certainly clarified the āyāt (verses or signs) for those who will pay attention to the advice. Theirs shall be an abode of peace by their lord (in Jannah) and He is their Protector because of the (good) works that they carried out (in the world).

Al-Qur'ān, 2:30

(وأفضل) جميع (الخلق) أي المخلوقات (علي الإطلاق) المراد منه العموم الشامل للعلوية والسفلية من البشر والجن والمكل في الدنيا والآخرة... (نبينا) محمد صلي الله عليه وسلم... (والأنبياء) عليهم الصلاة والسلام... (يلونه) أي يتبعون نبينا محمد صلي الله عليه وسلم (في الفضل) فمرتبتهم بعد مرتبه... (وبعدهم ملائكة ذو الفضل) فمرتبتهم تلي مرتبة الأنبياء عليهم السلام في الجملة، فالملائكة ولو غير رسل أفضل من غير الأنبياء من البشر ولو كان وليا كأي بكر و عمر رضي الله عنهما... وأبو عبد الله الحليمي في آخرين كالمعتزلة إلي أن الملائكة أفضل من الأنبياء.... قوله (الملائكة أفضل) قيل: لتجردهم عن الشهوات رد بأن وجودها مع قمعها أتم من باب أفضل العبادة أحمرها بقاء مهملة فزاي أي أشقى ألا ترى أن الأقسام ثلاثة: شهوة مضطربة وهو البهائم، وعقل محض وهو الملائكة، والإنسان مركب منهما فكما أن غلبة الشهوة تنزله عن البهائم لعذرها بالعدم... كذلك غلبة العقل ترفعه عن الملائكة. قال السعد: ولا قاطع في هذه المقامات.

(إتحاف المريد شرح جوهرة التوحيد مع حاشية ابن الأثير، ص ١٢٢-٥٢٢، دار الكتب العلمية)

Al-Qur'ān, 29:2-6

Al-Qur'ān, 6:125-127

CONTAGIOUSNESS

Q: Some medical researchers say that many of the modern day diseases are due to over usage of pesticides in agriculture, pharmaceutical medicine, water contamination ...etc. As a Muslim we believe that sickness and cure is from Allah. Is it wrong to attribute a disease or illness to above mentioned things? Please advice what should be the right approach in this regard. If I say that nothing will harm me unless it is from Allah and just eat/drink whatever I want. Is it right?

A: In order to answer your query, one must understand and differentiate between the concept of contagiousness of a disease and taking preventive measures in face of clear harm.

Contagiousness:

In regard to the first, the Messenger of Allāh (sallallahu alayhi wasallam) said:

«لَا عَذْوَى وَلَا طِيْرَةٌ، وَلَا هَامَةٌ وَلَا صَفَرٌ، وَفِرٌّ مِنَ الْمَجْدُومِ كَمَا تَفِرُّ مِنَ الْأَسَدِ»

(There is) no `adwā (no contagious disease is conveyed without Allāh's permission). Nor is there any bad omen, nor is there any Hāmah (superstition regarding an owl), nor is there any (bad omen in the month of) Safar, and one should run away from the leper as one runs away from a lion.

It is also reported on the authority of Jābir (radiyallāhu `anh):

أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَخَذَ يَدَ مَجْدُومٍ فَوَضَعَهَا مَعَهُ فِي الْقُضْعَةِ، وَقَالَ: «كُلْ ثِقَةً بِاللَّهِ وَتَوَكَّلًا عَلَيْهِ»

The Messenger of Allah (sallallahu alayhi wasallam) took a man who was suffering from leprosy by the hand; he then put it along with his own hand in the dish and said: "Eat with confidence in Allāh and trust in Him."

The lesson that we learn from these ahādīth is that the overall rule is that no disease spreads except by the will of Allāh Ta`ālā. However, due to the delicate nature of human beings regarding such matters, out of mercy and compassion the Messenger of Allāh (sallallahu alayhi wasallam) allowed people to exercise caution and instructed them to steer clear of areas where one may catch a certain disease. The underlying wisdom behind this command was to protect the belief of all Muslims regarding the contagiousness of diseases in case

a Muslim catches a disease and starts to believe that the actual cause of the disease is not through the power of Allāh Ta`ālā; rather, it is the contagiousness of the disease itself.

As such, one who exercises caution and stays away from such situations has practiced on the sunnah and has acted according to the wisdom of this command. On the other hand, one who shows absolute tawakkul (trust) in Allāh Ta`ālā and has reached very high levels of yaqīn (certainty in the fact that nothing in this world has any effect unless it is willed by Allāh the Almighty) may act on the general meaning of the hadīth (that in essence, nothing is contagious unless Allāh Ta`ālā wills that such a thing affects us).

In summary, nothing in this world has the power or ability to affect anything else unless Allāh Ta`ālā wills it as so; however, unless one has truly reached such a level of Īmān where one believes that one's belief will not waver or be shaken by any such incident, it is better that one practices on divine wisdom and the words of the Messenger of Allāh (sallallahu alayhi wasallam) by exercising precaution in such matters.

Preventive Measures:

Regarding the latter, there are many instances where the Messenger of Allāh (sallallahu alayhi wasallam) instructed his companions to be cautious when eating or drinking certain types of foods, especially when it was known that a certain food could have undesired effects on our bodies. Similarly, he would also point out that ailments and illnesses do exist and in order to combat such sicknesses Allāh Ta`ālā has created a cure as well. Consider the following narrations:

1. The Messenger of Allāh (sallallahu alayhi wasallam) is reported to have said:

لِكُلِّ دَاءٍ دَوَاءٌ، فَإِذَا أُصِيبَ دَوَاءُ الدَّاءِ بَرَأَ بِإِذْنِ اللَّهِ عَزَّ وَجَلَّ

There is a remedy for every malady, and when the remedy is applied to the disease it is cured with the permission of Allāh, the Exalted and Glorious.

2. The Messenger of Allāh (sallallahu alayhi wasallam) is also reported to have said:

إِنَّ اللَّهَ أَنْزَلَ الدَّاءَ وَالِدَوَاءَ، وَجَعَلَ لِكُلِّ دَاءٍ دَوَاءً فَتَدَاوُوا وَلَا تَدَاوُوا بِحَرَامٍ

Allāh has sent down both the disease and the cure, and He has appointed a cure for every disease, so treat yourselves medically, but do not treat yourselves with anything unlawful.

3. Abū Hurayrah (radiyallāhu `anh) narrates that the Messenger of Allāh (sallallahu alayhi wasallam) said:

مَا أَنْزَلَ اللَّهُ دَاءً إِلَّا أَنْزَلَ لَهُ شِفَاءً

“There is no disease that Allāh has created except that He also has created its cure.”

4. In the following narration, the Messenger of Allāh (sallallahu alayhi wasallam) points out that intentionally consuming a fatal drink such as poison is a great sin:

مَنْ تَحَسَّى سَمًا فَقَتَلَ نَفْسَهُ، فَسَمُهُ فِي يَدِهِ، يَتَحَسَّاهُ فِي نَارِ جَهَنَّمَ خَالِدًا مُخَلَّدًا فِيهَا أَبَدًا

Whoever drinks poison and kills himself with it, he will be carrying

his poison in his hand and drinking it in the (Hell) Fire wherein he will abide eternally forever.

5. Abū Hurayrah (radiyallāhu `anh) narrates that the Messenger of Allāh (sallallahu alayhi wasallam) said:

إِذَا وَقَعَ الذُّبَابُ فِي إِنَاءٍ أَحَدِكُمْ فَلْيَغْمِسْهُ كُلَّهُ، ثُمَّ لِيَطْرَحْهُ، فَإِنَّ فِي أَحَدِ جَنَاحَيْهِ شِفَاءً، وَفِي الْآخَرِ دَاءٌ

If a fly falls in the vessel of any of you, let him dip all of it (into the vessel) and then throw it away, for in one of its wings there is a disease and in the other there is healing (an antidote for it).

6. It is also narrated that the Messenger of Allāh (sallallahu alayhi wasallam) advised one of his companions to avoid certain foods while suffering from specific ailments such as in the following narration:

عَنْ عَبْدِ الْحَمِيدِ بْنِ صَيْفِيٍّ، مِنْ وَلَدِ صُهَيْبٍ عَنْ أَبِيهِ، عَنْ جَدِّهِ صُهَيْبٍ، قَالَ: قَدِمْتُ عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَبَيْنَ يَدَيْهِ خُبْزٌ وَتَمْرٌ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «ادْنُ فَكُلْ» فَأَخَذْتُ أَكُلُ مِنَ التَّمْرِ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ «تَأْكُلُ تَمْرًا وَبِكَ رَمَدٌ؟» قَالَ، فَقُلْتُ: إِنِّي أَمْضُغُ مِنْ نَاحِيَةِ أُخْرَى، فَتَبَسَّمَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ

Suhayb (radiyallāhu) narrates: I came to the Prophet (sallallahu alayhi wasallam) and in front of him there were some bread and dates. The Prophet (sallallahu alayhi wasallam) said: 'Come and eat.' So I started to eat some of the dates. Then the Prophet (sallallahu alayhi wasallam) said: 'Are you eating dates when you have an inflammation in your eye?' I said: 'I am chewing from the other side.' The Messenger of Allāh (sallallahu alayhi wasallam) smiled.

From the above narrations we understand that there are also many instances where the Messenger of Allāh (sallallahu alayhi wasallam) has advised us that we should take precautionary measures, lest we

do harm to ourselves and our bodies. In fact, Ibn al-Qayyim (rahimahullāh) has dedicated an entire section in his book *Al-Tibb Al-Nabawī* (Prophetic Medicine) to preventive medicine and numerous chapters regarding prophetic advices in curing bodily ailments in his book *Zād al-Ma'ād*.

In regard to water contamination and the use of pesticides, studies have demonstrated that the use of toxic pesticides and instances of consuming contaminated water may cause certain short-term and long-term illnesses. However, preventive measures may be taken such as washing fruits and vegetables before eating, using organic foods instead of chemically treated foods, utilizing water filtration systems, and simply adhering to personal hygiene.

Furthermore, governmental protocols and laws aim to prevent such issues as much as possible by regulating the quality of drinking water and the levels of pesticides utilized in production. As Muslims, we may also take preventive measures by promoting healthy habits that keep us and our families safe from such diseases.

In summary, while it is incorrect to directly attribute the effect of a disease or illness to such things, seeking preventive measures in face of apparent harms is not against *tawakkul* (having trust) in Allāh Ta'ālā as established through the guidance of our blessed Nabī (salallahu alayhi wasallam).

Bukhārī, 5707, *The Book of Medicine*

Abū Dāwūd, 3925, *The Book of Divination and Omens*

وَلَكِنْ وَجْهَ الْخَبِيثِ عِنْدِي مَا ذَكَرْتَهُ وَأَطَقْتُ بِنَ حُرَيْرَةَ فِي هَذَا فِي كِتَابِ التَّوَكُّلِ فَإِنَّهُ أَوْزَعَ حَدِيثَ لَا عَدْوَى عَنْ عِدَّةٍ مِنَ الصَّخَابَةِ وَحَدِيثَ لَا يُوْرِدُ مُفْرَضٌ عَلَى مُصْحٍ مِنْ حَدِيثِ أَبِي هُرَيْرَةَ وَتَرْجَمَ لِلأَوَّلِ التَّوَكُّلَ عَلَى اللَّهِ فِي تَفْيِ الْعَدْوَى وَلِلثَّانِي ذَكَرَ خَيْرَ غِلَظٍ فِي مَعْنَاهُ بَعْضُ الْعُلَمَاءِ وَأَثْبَتَ الْعَدْوَى الَّتِي تَقَاَهَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ثُمَّ تَرْجَمَ الدَّبِيلَ عَلَى أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَمْ يَرِدْ إِبْثَاتُ الْعَدْوَى بِهَذَا الْقَوْلِ فَسَاقَ حَدِيثُ أَبِي هُرَيْرَةَ لَا عَدْوَى فَقَالَ أَغْرَابِي فَمَا بَالُ الرَّبْلِ يُخَالِطُهَا الْأَجْرَبُ

فَقَبَّرْتُ قَالَ قَمَنْ أَعْدَى الْأَوَّلُ ثُمَّ ذَكَرَ طَرَفَهُ عَنْ أَبِي هُرَيْرَةَ ثُمَّ أَخْرَجَهُ مِنْ حَدِيثِ بْنِ مَسْعُودٍ ثُمَّ تَرَجَمَ ذَكَرَ رُويَ فِي الْأَمْرِ بِالْفَرَارِ مِنَ الْمَجْدُومِ قَدْ يَخْطُرُ لِبَغْضِ النَّاسِ أَنْ فِيهِ إِثْبَاتُ الْعَذَى وَلَيْسَ كَذَلِكَ وَسَاقَ حَدِيثَ فَرَزَكَ مِنَ الْأَسَدِ مِنْ حَدِيثِ أَبِي هُرَيْرَةَ وَمِنْ حَدِيثِ عَائِشَةَ وَحَدِيثِ عَفْرُو بْنِ الشَّرِيدِ عَنْ أَبِيهِ فِي أَمْرِ الْمَجْدُومِ بِالرُّجُوعِ وَحَدِيثِ بِنِ عُبَّاسٍ لَا يَدْعُوا النَّظَرَ إِلَى الْمَجْدُومِينَ ثُمَّ قَالَ إِنَّمَا أَمَرَهُمْ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِالْفَرَارِ مِنَ الْمَجْدُومِ كَمَا نَهَاهُمْ أَنْ يُبَوِّدَ الْمُفْرَضَ عَلَى الْمُصِحِّ بِحَقِّهِ عَلَيْهِمْ وَخَشْيَةَ أَنْ يُصِيبَ بَعْضُ مَنْ يُخَالِطُهُ الْمَجْدُومَ الْجَذَامَ وَالصَّحِيحَ مِنَ الْمَافِيَةِ الْجَرَبَ فَيَسْقِي إِلَى بَعْضِ الْمُسْلِمِينَ أَنْ ذَلِكَ مِنَ الْعَذَى فَيُثْبِتُ الْعَذَى الَّتِي نَهَاها صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَمَرَهُمْ بِتَجَنُّبِ ذَلِكَ شَفَقَةً مِنْهُ وَرَحْمَةً لِيَسْلَمُوا مِنَ التَّضْيِيقِ بِإِثْبَاتِ الْعَذَى وَبَيَّنَّ لَهُمْ أَنَّهُ لَا يُعْدِي شَيْءٌ شَيْئًا قَالَ وَيُؤَيِّدُ هَذَا أَكْثَرُ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَعَ الْمَجْدُومِ يَفْقَهُ بِاللَّهِ وَتَوَكَّلَا عَلَيْهِ وَسَاقَ حَدِيثَ جَابِرٍ فِي ذَلِكَ ثُمَّ قَالَ وَأَمَّا نَهْيُهُ عَنْ إِدَامَةِ النَّظَرِ إِلَى الْمَجْدُومِ فَيَحْتَمِلُ أَنْ يُكُونَ لِأَنَّ الْمَجْدُومَ يَغْتَمُ وَيَكُونُ إِدْمَانُ الصَّحِيحِ نَظَرَهُ إِلَيْهِ لِأَنَّهُ قَلَّ مَنْ يَكُونُ بِهِ دَاءٌ إِلَّا وَهُوَ يَكُونُ أَنْ يُطْلَعَ عَلَيْهِ أَوْ هَذَا الَّذِي ذَكَرَهُ اخْتِمَالًا سَبَقَهُ إِلَيْهِ مَالِكٌ...

وَقَالَ الطَّبْرِيُّ الصَّوَابُ عِنْدَنَا الْقَوْلُ بِمَا صَحَّ بِهِ الْخَبَرُ وَأَنَّ لَا يُصِيبُ نَفْسًا إِلَّا مَا كُتِبَ عَلَيْهَا وَأَمَّا دُعَاؤُ عِلِيلٍ مِنْ صَحِيحٍ فَقَبْرُ مَوْجِبِ انْتِقَالِ الْعِلَّةِ لِلصَّحِيحِ إِلَّا أَنَّهُ لَا يَنْتَبِهُ لِدِي صَحَّةِ الدُّعَاءِ مِنْ صَاحِبِ الْعَاقِبَةِ الَّتِي يَكُونُهَا النَّاسُ لَا يَتَحَرَّيْمُ ذَلِكَ بَلْ يَخْشِيهِ أَنْ يَطْلُبَ الصَّحِيحُ أَنَّهُ لَوْ نَزَلَ بِهِ ذَلِكَ الدَّاءُ أَنَّهُ مِنْ جِهَةِ دُعَاؤِهِ مِنَ الْعِلِيلِ فَيَقْبَعُ فِيهَا أَبْطَلَهُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مِنَ الْعَذَى وَقَدْ سَلَكَ الطَّحَاوِيُّ فِي مَعَانِي الْأَثَارِ مَسْلَكًا بِنِ حُرْمَةِ فِيمَا ذَكَرَهُ...

(فتح الباري، حديث رقم ٧٠٧٥، كتاب الطب)

قَالَ الشُّيْخُ أَبُو مُحَمَّدٍ بُنْ أَبِي جَمْرَةَ الْأَمْرُ بِالْفَرَارِ مِنَ الْأَسَدِ لَيْسَ لِلْمُوجِبِ بَلْ لِلشَّفَقَةِ لِأَنَّهُ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يَنْهَى أَهْلَهُ عَنْ كُلِّ مَا فِيهِ ضَرَرٌ بِأَيِّ وَجْهِ كَانَ وَيَدْلُهُمْ عَلَى كُلِّ مَا فِيهِ خَيْرٌ وَقَدْ ذَكَرَ بَعْضُ أَهْلِ الطَّبِّ أَنَّ الرُّوَاعِيَ تَخَذَتْ فِي الْأَذْيَانِ خَلَلًا فَكَانَ هَذَا وَجْهَ الْأَمْرِ بِالْمُجَانَبَةِ وَقَدْ أَكَلَ هُوَ مَعَ الْمَجْدُومِ فَلَوْ كَانَ الْأَمْرُ بِمُجَانَبَتِهِ عَلَى الْوُجُوبِ لَمَّا فَعَلَهُ وَقَالَ وَتَمَكَّنَ الْجَمْعُ بَيْنَ فِعْلِهِ وَقَوْلِهِ بِأَنَّ الْقَوْلَ هُوَ الْمَشْرُوعُ مِنْ أَجْلِ ضَعْفِ الْمُخَاطَبِينَ وَفَعْلُهُ حَقِيقَةُ الْإِيمَانِ قَمَنْ فَعَلَ الْأَوَّلُ أَصَابَ السُّنَّةَ وَهِيَ أَكْثَرُ الْحِكْمَةِ وَمَنْ فَعَلَ الْثَانِي كَانَ أَقْوَى لِأَنَّ الْأَشْيَاءَ كُلَّهَا لَا تَأْتِيَرُ لَهَا إِلَّا بِمُقْتَضَى إِرَادَةِ اللَّهِ تَعَالَى وَتَقْدِيرِهِ كَمَا قَالَ تَعَالَى وَمَا هُمْ بِضَارِينَ بِهِ مِنْ أَحَدٍ إِلَّا بِإِذْنِ اللَّهِ قَمَنْ كَانَ قَوِيَّ الْبَيِّنِ فَلَهُ أَنْ يَتَابَعَهُ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي فِعْلِهِ وَلَا يَضُرُّهُ شَيْءٌ وَمَنْ وَجَدَ فِي نَفْسِهِ ضَعْفًا فَلْيَتَّبِعْ أَمْرَهُ فِي الْفَرَارِ تَلَا بِدُخُلِ بِفِعْلِهِ فِي الْقَاءِ نَفْسَهُ إِلَى التَّهْلُكَةِ فَالْحَاصِلُ أَنَّ الْأُمُورَ الَّتِي يَتَوَقَّعُ مِنْهَا الضَّرَرُ وَقَدْ أَبَاحَ الْحِكْمَةُ الرَّبَّانِيَّةُ الْحَذَرَ مِنْهَا فَلَا يَنْتَبِغِي لِلضَّعْفَاءِ أَنْ يَقْرُبُوهَا وَأَمَّا أَصْحَابُ الضَّدِّي وَالْيَقِينِ فَهُمْ فِي ذَلِكَ بِالْيَقَارِ (المراجع السابق)

(ومن يقل) من أهل الضلالة: كالفلاسفة (الطبيب) أي: بتأثير الطبع، أي: الطبيعية والحقيقة، بأن يقول: أن الأشياء المذكورة تؤثر بطبيعتها. (أو) يقل (بالعلة) أي: بتأثيرها، بأن يقول: إن بعض الأشياء علة، أي: سبب في وجود شيء، أي: غير أن كون الله تعالى فيه اختيار... (فذاك) القائل (كفر)... لأنه أثبت الشريك، والعجز لله - تعالى عن ذلك - (سند) جميع (أهل الملة) أي: ملة الإسلام... (ومن يقل) من أهل الزيغ إن هذه الأمور العادية تؤثر (بالقوة المودعة) أي: بواسطة قوة أودعها الله تعالى فيها... (فذاك) القائل (بدعي) فلا تنتفت) أي: نقوله، بل يجب الأعراس عنه، والتمسك بقول أهل السنة: من أنه لا تأثير ما سوي الله تعالى أصلاً، لا بطبع، ولا بعلة، ولا بواسطة قوة أودعت فيها، وإما التأثير لله وحده بمحض اختياره.

(شرح الخريدة البهية، ص ٤٦١-٦٦١، دار البصائر)

Muslim, 2204, The Book of Greetings

Abū Dāwūd, 3874, The Book of Medicine

Bukhārī, 5678, The Book of Medicine

Ibid., 5778

Ibid., 5782

Abū Dāwūd, 3874, The Book of Medicine

فَالطَّبِيبُ: هُوَ الَّذِي يَقَرُّ مَا يَضُرُّ بِالْإِنْسَانِ جَمْعُهُ، أَوْ يَجْمَعُ فِيهِ مَا يَضُرُّ تَقَرُّفُهُ، أَوْ يَنْقُصُ مِنْهُ مَا يَضُرُّه زِيَادَتُهُ، أَوْ يَزِيدُ فِيهِ مَا يَضُرُّهُ نَقْصُهُ، فَيَجْلِبُ الصَّحَّةَ الْمَفْقُودَةَ، أَوْ يَحْفَظُهَا بِالشَّكْلِ وَالشَّيْبَةِ، وَيَنْقِصُ الْعِلَّةَ الْمَوْجُودَةَ بِالضَّدِّ وَالنَّقِيبِ وَيُخْرِجُهَا، أَوْ يَنْقِصُهَا بِمَا يَمْتَنِعُ مِنْ خُضُولِهَا بِالْجَمْعَةِ، وَسَرَى هَذَا كُلُّهُ فِي هَذِي رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ سَافِيًا كَافِيًا بِحَوْلِ اللَّهِ وَقُوَّتِهِ، وَقَضِيهِ وَمَعُونَتِهِ.

(زاد المعاد، ج ٤، ص ٩، مؤسسة الرسالة)

See Al-Tibb Al-Nabawī: Fasli fi al-Mahādhir

See Zād al-Ma`ād: Fasli Tibb al-Abdān, Fasli al-Tadawī, Fasli Anwa`i 'Ilājihi

Pesticide illness is a grouping of symptoms and diseases that can be caused by exposure to pesticides in the workplace, home, and other places in the environment.

Exposures to pesticides may cause a wide variety of both acute (short-term) and chronic (long-term) health affects, depending upon the type of pesticide and the amount of exposure. Signs of acute poisoning may include diarrhea, pinpoint pupils, rashes, nausea, headache, and vomiting. Some pesticides may cause eye, skin, or throat irritation. Chronic exposure (greater than 1 year) to some types of pesticides may aggravate asthma symptoms; other types may increase the risk for certain types of cancers and birth defects, or cause damage to the genetic and immune systems.

["Pesticide Illness", CDPH, accessed on March 09, 2015, <http://www.cdph.ca.gov/HEALTHINFO/DIS->

COND/Pages/PesticideIllness.aspx]

Laboratory studies show that pesticides can cause health problems, such as birth defects, nerve damage, cancer, and other effects that might occur over a long period of time. However, these effects depend on how toxic the pesticide is and how much of it is consumed. Some pesticides also pose unique health risks to children.

["Pesticides and Food: Health Problems Pesticides May Pose", EPA, accessed on March 09, 2015, <http://www.epa.gov/pesticides/food/risks.htm>]

Beyond Pesticides, an environmental and public health group, decided to put together the Pesticide-Induced Diseases Database to raise awareness about the dangers of pesticides and to urge policy changes to get these chemicals removed from use.

"A read through of the scientific literature on pesticides and major preventable diseases afflicting us in the 21st century suggests that one of the first responses called for is an all out effort to stop using toxic pesticides," explained Jay Feldmen, executive director of Beyond Pesticides.

["Pesticides may be a leading cause of major diseases", Natural News, accessed on March 09, 2015, http://www.naturalnews.com/029550_pesticides_disease.html]

The presence of contaminants in water can lead to adverse health effects, including gastrointestinal illness, reproductive problems, and neurological disorders. Infants, young children, pregnant women, the elderly, and people whose immune systems are compromised because of AIDS, chemotherapy, or transplant medications, may be especially susceptible to illness from some contaminants.

["Water-related Diseases and Contaminants in Public Water Systems", CDC, accessed on March 09, 2015, http://www.cdc.gov/healthywater/drinking/public/water_diseases.html]

"Water Sanitation Health", WHO, accessed on March 09, 2015, http://www.who.int/water_sanitation_health/diseases/diarrhoea/en/

"Pesticides and Food: Health Problems Pesticides May Pose", EPA, accessed on March 09, 2015, <http://www.epa.gov/pesticides/food/risks.htm>

"Water-related Diseases and Contaminants in Public Water Systems", CDC, accessed on March 09, 2015, http://www.cdc.gov/healthywater/drinking/public/water_diseases.html

QIYAAMUL LAYL & TAHAJJUD

Q: I have heard that in qiyaamul-layl, we should try to pray it individually and not in jamaat. Why is this? And is it permissible? And the same for tahajjud. Can this be prayed in jamaat? Why or why not? And also, is this permissible?

A: According to the Hanafi Mazhab (school of thought), Nafil Salaah (optional/additional Salaah) should be performed individually during Ramadaan and out of Ramadaan. This is with the exclusion of Salaatut Taraweeh, Salaatul Istisqaa' (Salaah seeking rain) and Salaatul Kusoof (Salaah at a solar eclipse). All these Salaahs are performed in congregation.

If two or three people follow an Imaam in Nafil Salaah occasionally, it is permissible to do so. However, it is Makrooh for four people to follow an Imaam in Nafil Salaah.

{ والجماعة في النفل في غير التراويح مكروهة فلاحتياط تركها..... وعن شمس الأئمة أن هذا أن هذا أي كراهة الجماعة في النفل إذا كان على سبيل التداعي أي طريق يدعو الناس للإجماع عليهم أما لو اقتدى واحد بواحد أو اثنان بواحد لا يكره لأن النبي صلى الله عليه وسلم أم ابن عباس في صلاة الليل وصح أنه صلى الله عليه وسلم أم أنسا والبيتم والعجوز فصلى بهم ركعتين وكانت نافلة وإذا اقتدى ثلاثة بواحد اختلف فيه وإذا اقتدى أربعة بواحد كره اتفاقا {حاشية الطحطاوي على مراقي الفلاح شرح نور الإيضاح، ج 1، ص 683، دار الكتب العلمية بيروت - لبنان }

{ 2 } وَالْجَمَاعَةُ فِي النَّفْلِ فِي غَيْرِ رَمَضَانَ مَكْرُوهَةٌ فَلَاخْتِيَاظَ تَرْكُهَا فِيهِ { تبين الحقائق شرح كنز الدقائق وحاشية الشُّلْبِي، ج 1، ص 881، المطبعة الكبرى الأميرية - بولاق، القاهرة }

{ 3 } (وَيُؤْتَرُ) أَي يُصَلِّي الْوُتْرَ (بِجَمَاعَةٍ فِي رَمَضَانَ فَقَطْ) لِإِعْقَادِ الْجَمَاعِ عَلَيْهِ كَمَا فِي الْهَدَايَةِ وَفِيهِ إِشَارَةٌ إِلَى أَنَّهُ لَا يُؤْتَرُ بِجَمَاعَةٍ فِي غَيْرِ شَهْرِ رَمَضَانَ لِأَنَّهُ نَفْلٌ مِنْ وَجْهِ وَالْجَمَاعَةُ فِي النَّفْلِ فِي غَيْرِ رَمَضَانَ مَكْرُوهَةٌ فَلَاخْتِيَاظَ تَرْكُهَا { مجمع الأنهر في شرح ملتقى الأبحر، ج 1، ص 731، دار إحياء التراث العربي }

{ فتاوي دار العلوم زكريا، ج 2، ص 883/783، زمزم ببلشزر }

{ فتاوي عثمان، ج 1، ص 844-854، مكتبة معارف القرآن كراتشي }

مولانا ظفر احمد عثمانی: { 1 }

قلت : و تفسير التداعي بالإهتمام والمواظبة أولي من تفسيرها بالا بعدد و الكثرة كما لا يخفي، لأن الأول أقرب إلي اللغة و أشبه بها دون الثاني. { إعلاء السنن، ج 7، ص 39، ادارة القرآن كراتشي }

{ 2 } مولانا حسين احمد مدني:

وَقَدْ صَرَّحَ الْحَاكِمُ أَيْضًا فِي بَابِ صَلَاةِ الْكُشُوفِ مِنَ الْكَافِي بِقَوْلِهِ وَيَكْرَهُ صَلَاةَ التَّطَوُّعِ جَمَاعَةً مَا خَلَا قِيَامَ رَمَضَانَ وَصَلَاةَ الْكُشُوفِ ، وَهَذَا خِلَافَ مَا ذَكَرَ شَيْخُ الْإِسْلَامِ رَحِمَهُ اللَّهُ { فتح القدير، ج 2، ص 95، مكتبة رشديه كوته }

قُلْتُ: وَيُؤْتَرُ أَيْضًا مَا فِي الْبَدَائِعِ مِنْ قَوْلِهِ: إِنَّ الْجَمَاعَةَ فِي التَّطَوُّعِ لَيْسَتْ بِسُنَّةٍ إِلَّا فِي قِيَامِ رَمَضَانَ أَهـ فَإِنْ نَفَى السُّنَّةُ لَا يَسْتَلْزِمُ الْكَرَاهَةَ، نَعَمْ إِنْ كَانَ مَعَ الْمُوَاطَّعَةِ كَانَ بِدْعَةً فَيَكْرَهُ. { رد المحتار على الدر المختار، ج 2، ص 94-84، دار الفكر-بيروت }

مذكوره بالا نصوص میں قیام رمضان کی تصریح فرمائی گئی، اس کی تخصیص تراویح کے ساتھ نہیں کی گئی، چونکہ رسول اللہ صلی اللہ علیہ

وسلم سے تسری شب تک اور صحابہ کرام سے آخری شب تک نوافل باجماعت پڑھنا منقول ہے ، جیسا کہ موطا امام مالک میں بکثرت مروی ہے ، اس لئے تمام وہ نوافل جو رمضان کی راتوں میں پڑے جائیں ، خواہ تراویح ہو یا تہجد ، اوائل شب یا اواخر شب میں ، جماعت کی اجازت ہوگی ۔

قَالَ مُحَمَّدٌ: وَبِهَذَا كُلُّهُ تَأْخُذُ لَا بَأْسَ بِالصَّلَاةِ فِي شَهْرِ رَمَضَانَ، أَنْ يُصَلِّيَ النَّاسُ تَطَوُّعًا بِإِمَامٍ، لِأَنَّ الْمُسْلِمِينَ قَدْ أَجْمَعُوا عَلَى ذَلِكَ وَرَأَوْهُ حَسَنًا { موطا مالک بروایہ محمد بن الحسن الشیبانی، ج 1، ص 19، المكتبة العلمية } .

أَيَّ قَامَ لَيْلِيَهُ مُصَلِّيًا وَالْمَرَادُ مَنْ قَامَ اللَّيْلَ مَا يَخْضُلُ بِهِ مُطْلَقَ الْقِيَامِ كَمَا قَدَّمْنَا فِي التَّهَجُّدِ سَوَاءً وَذَكَرَ النَّوَوِيُّ أَنَّ الْمَرَادَ بِقِيَامِ رَمَضَانَ صَلَاةَ التَّارَوِيحِ يَغْنِي أَنَّهُ يَخْضُلُ بِهَا الْمَطْلُوبَ مِنَ الْقِيَامِ لَا أَنَّ قِيَامَ رَمَضَانَ لَا يَكُونُ إِلَّا بِهَا وَأَغْرَبَ الْكِرْمَانِيُّ فَقَالَ اتَّفَقُوا عَلَى أَنَّ الْمَرَادَ بِقِيَامِ رَمَضَانَ صَلَاةَ التَّارَوِيحِ { فتح الباري شرح صحيح البخاري، ج 4، ص 152، دار المعرفة - بيروت }

قلت : قال النووي : المراد بقيام رمضان صلوة التراويح، ولكن اتفاق من أين أخذه بل المراد من قيام الليل ما يحصل به مطلق القيام سواء كان قليلا أو كثيرا، اهـ . وقال العيني في الجزء الأول صفحة : ١٨٢ من كتاب الإيعان من عمدة القاري ما نصه، ومعنى من قَامَ رَمَضَانَ: مَنْ قَامَ بِالطَّاعَةِ فِي لَيْلِي رَمَضَانَ، وَيُقَالُ: يُرِيدُ صَلَاةَ التَّارَوِيحِ، وَقَالَ بَعْضُهُمْ: لَا يَخْصُصُ ذَلِكَ بِصَلَاةِ التَّارَوِيحِ بَلْ فِي أَيِّ وَقْتٍ صَلَّى تَطَوُّعًا حَصَلَ لَهُ ذَلِكَ الْفَضْلُ { عمدة القاري شرح صحيح البخاري، ج 1، ص 332، دار إحياء التراث العربي - بيروت }

نصوص مذکورہ بالا سے مندرجہ ذیل امور معلوم ہوتا ہے :-

1:- ہر نفل نماز باجماعت مطلقا مکروہ نہیں ہیں ، بلکہ اس سے کچھ مستثنیات بھی ہیں ۔

2:- مستثنیات میں لفظ قیام اور کسوف کو ذکر کیا ہے ۔

3:- امام محمد اور حاکم اور صاحب بدائع وغیرہ متقدمین (رحمہم اللہ تعالیٰ) نے فقط لفظ قیام رمضان ذکر فرمایا ہے ، جو کہ مخصوص بالتراویح نہیں ہے۔

4:- قیام رمضان کو مخصوص بالتراویح کرنا قول مرجوح ہے ، جو کہ علامہ کرمانی اور علامہ نووی رحمہما اللہ تعالیٰ کا قول ہیں ، اس کے خلاف حافظ ابن حجر عسقلانی اور امام عینی رحمہما اللہ تعالیٰ قیام رمضان سے تمام نوافل مراد لے رہے ہیں ، خواہ تراویح ہو یا تہجد ہو ، یا دیگر نوافل ۔ اور امام نووی کے قول کو مؤول قرار دیتے ہوئے اپنے قول کی طرف لوٹاتے ہیں، اور کرمانی کے قول کو غریب اور مخدوش فرما دیتے ہیں ، اور یہی امر مدلول مطابقی بھی ہے ۔

بنابراین فتاویٰ رشیدیہ کی تصریح جلد ثانی صفحہ 951 اور جلد اول صفحہ 94 جس میں مستثنیات کو منحصر تراویح کے ساتھ کیا گیا ، قول مرجوح پر مبنی ہے ۔ پس رمضان کی جملہ نوافل کی جماعت ، خواہ بالتدعی ہو یا بلا تداعی ، سب ماذون فیہ بلکہ مستحب ہوں گی ، اور ”من قام رمضان“ کے تحت داخل ہوں گی ، اس پر نکیر کرنا غیر صحیح ہوگا ، بلکہ جملہ طاعات ، طواف نفل یا عمرہ نافلہ وغیرہ اسی میں محسوب اور مرغوب فیہ قرار دیئے جائیں گے، کہا ذکر العینی رحمہ اللہ تعالیٰ ۔

ہم نے حضرت قطب العالم حاجی امداد اللہ صاحب قدس اللہ سرہ العزیز کا عمل بھی مکہ معظمہ میں اسی پر پایا ہے ، اور حضرت شیخ الہند مولانا محمود الحسن قدس اللہ سرہ العزیز کا بھی یہی معمول تھا ۔ اور حرمین شریفین سے عمل ستہ عشریہ وغیرہ کا جو کہ بالخصوص شوافع ، اور چالیس رکعات کا عمل جو کہ موالک کا معمول ہے تھا ، اور اہل مکہ کا قدیمی عمل ہر ترویجہ پر اسرع طواف کا اسی کا مؤید ہے { منقول فی فتاویٰ عثمانیہ، ج 1، ص 644-644، مکتبہ معارف القرآن کراچی }

PERFORMING SALAAH WITH SHOES

Q: What is the ruling on performing prayers with shoes on? A friend mentioned that there is a hadith that states the prophet and Sahabah performed Salaah with shoes in normal conditions. I am very confused because I see her performing prayers sometimes with shoes on.

A: If one performs salah with shoes on and there is no impurity on the shoes, the salah will be valid. However, it is advisable not to perform salah in shoes if there is no dire need to do so, as performing salah in shoes especially the shoes of today may compromise the sunnat posture in sajdah and jalsa (sitting posture). A dire situation is for example the ground is muddy or one is in a forest and it is a thorny ground.

رفع الاشتباه عن مسألتني كشف الرؤوس وليس النعال في الصلاة للكوثري

قال اللكنوي في غاية المقال فيما يتعلق بالنعال: فقال: لَمَّا لم تكره الصَّلَاةُ مُتَّعِلًا مع كونها أرفع العبادات، لا تكره زيارة القبور مُتَّعِلًا بالطريق الأولى ص 744

قال في المحيط البرهاني: وكان يقول البلوى إما تكون في النعال والنعال مما يمكن خلعها، وقد اعتاد الناس خلع النعال، وليس فيه كثير ضرورة والصلاة بغير النعل أحمد، والكثير الفاحش فيه يمنع جواز الصلاة

IS USING TASBEEH A BIDAH?

Q: I have following questions:

1. Is using Tasbeeh is Bidah & is this imitation of Christianity.
2. Giving Tasbeeh as a Hadiyah is permissible in Islam.

It is permissible to use a “tasbīh” or “subhah” in order to aid oneself in performing dhikr. A tasbīh helps in performing dhikr in two ways:

1. By holding it in the hand or seeing it, one is encouraged and reminded to perform dhikr. This is why it is also known as a “mudhak-kir” (reminder).
2. It also helps one keep count.

Using beads or stones to help one with dhikr is supported by hadīths. Imāms Abū Dāwūd and al-Tirmidhī narrated in their collections on the authority of Sa’d ibn Abī Waqqās (radiyAllāhu ‘anh) that together with Rasūlullāh (sallAllāhu ‘alayhi wasallam) he came upon a woman with date stones or pebbles before her, with which she was reciting tasbīh. The narration continued, but does not state Rasūlullāh (sallAllāhu ‘alayhi wasallam) reprimanded her or disapproved of what she was doing. Imām al-Tirmidhī and Hāfiz Ibn Hajar al-‘Asqalānī graded the chain of narration hasan. This offers proof that taking assistance from something to help one to keep count of his dhikr is permissible.

Hence, if one uses tasbīh for this purpose it will not be bid‘ah. However, there should be no belief attached to the tasbīh that it has intrinsic virtue or the one who recites dhikr using it is superior to one who does not. The great scholars, Jalāl al-Dīn al-Suyūtī (d. 911 H) and ‘Abd al-Hayy al-Laknawi (d. 1304 H), have both authored treatises showing the permissibility of using a tasbīh. It is permissible to give a tasbīh as hadiyyah.

نتائج الأفكار، دار ابن كثير، ج. ١، ص ١٨
“المنحة في السبحة” ضمن الحاوي للفتاوي، دار الكتب العلمية، ج. ٢، ص ٥٠-٥١
“نزهة الفكر في سبحة الذكر” مع حاشيته “النفحة بتحشية النزهة” الملقب بـ “هدية الأبرار في سبحة الأذكار” ضمن مجموعة رسائل اللكنوي، المكتبة الإمدادية، ص. ٧١١-٥٥١

REPENTING FROM SINS

Q: I am sick and tired of being a bad person and disobeying Allah. I am regular in my Salaah but do commit sins that I am too ashamed to speak of. Please advise me on the best way to repent (such as some duas, qur'anic ayah) and to attain taqwa and the love for Allah in my heart. Also, I hear people speak of 'salaatul tawba'. Is there such a thing and if so, how should one perform it.

A: Allah Ta'ālā is full of mercy and kindness and is always ready to forgive. Never despair of His mercy. Allah Ta'ālā says:

قُلْ يَا عِبَادِيَ الَّذِينَ أَسْرَفُوا عَلَىٰ أَنْفُسِهِمْ لَا تَقْنَطُوا مِن رَّحْمَةِ اللَّهِ إِنَّ اللَّهَ يَغْفِرُ الذُّنُوبَ جَمِيعًا إِنَّهُ هُوَ الْغَفُورُ
الرَّحِيمُ

“Say (on My behalf), ‘O servants of Mine who have acted recklessly against their own selves, do not despair of Allah’s mercy. Surely, Allah will forgive all sins. Surely, He is the One who is the Most-For-giving, the Very-Merciful.”

Alhamdulillah, Allah Ta'ālā has put in your heart the desire to change and become His obedient slave. This is the first step towards tawbah. Capitalise on this feeling and do not give up or become despondent. Inshā Allah, the following guidelines will be sufficient:

Firstly, find the company of a righteous guide and shaykh in your locality who you can relate to and who has imbibed the qualities of Taqwā and adherence to the Sunnah. Keep his company, confide in him and adhere to his advice.

Secondly, be sincere in leaving sins by cutting off all avenues to sin. For example, if one is overcome by the sin of lust, he should cut off all avenues leading to it, by not keeping television in his home,

disabling pictures on the internet, not watching films or movies, not attending places where he would be led to temptation and sin or where there is intermingling of sexes, lowering his gaze when outside and in the marketplace, and so on.

Thirdly, recite the following du‘ā’ after every Fajr and Maghrib prayer, with feeling and devotion:

اللَّهُمَّ أَنْتَ رَبِّي لَا إِلَهَ إِلَّا أَنْتَ، خَلَقْتَنِي وَأَنَا عَبْدُكَ، وَأَنَا عَلَى عَهْدِكَ وَوَعْدِكَ مَا اسْتَطَعْتُ، أَعُوذُ بِكَ مِنْ شَرِّ مَا صَنَعْتُ، أَبُوءُ لَكَ بِنِعْمَتِكَ عَلَيَّ، وَأَبُوءُ لَكَ بِذَنْبِي فَاغْفِرْ لِي، فَإِنَّهُ لَا يَغْفِرُ الذُّنُوبَ إِلَّا أَنْتَ

Allaahumma Anta Rabbee; laa ilaaha illaa Anta; khalaaqtanee wa ana ‘abduk; wa ana ‘alaa ‘ahadika wa wa’dika mastataa’t; a’oodhu bika min sharri maa ana’tu; aboo’u laka bi ni’matika ‘alayya wa aboo’u laka bidhambee; faghfirlee; fa innahoo laa yaghfirudh dhunooba illa Anta

“O Allah! You are my Lord. There is no deity besides You. You have created me and I am Your slave. And I hold to Your covenant and Your promise as much as I can. I seek protection in You from the evil that I have committed. I confess to You Your blessing over me and I confess to You my sin. So forgive me! For verily, none forgives sin but You.”

Rasūlullāh (sallAllāhu ‘alayhi wasallam) said about this supplication: “Whoever says this in the morning having certainty in it, and dies on that day before reaching the evening, he will be from the inhabitants of Jannah. And whoever says this in the evening having certainty in it, and dies before reaching the morning, he will be from the inhabitants of Jannah.” (Sahīh al-Bukhārī)

Fourthly, as far as possible, perform every Salāh in the masjid. Rasūlullāh (sallAllāhu ‘alayhi wasallam) said: “The congregational Salāh exceeds one’s Salāh in his house and his Salāh in his market by 25

times. When one of you performs wudū' and excels (in performing wudū'), and he attends the masjid, having no intention besides Salāh, he does not tread one step, except Allah raises him one rank thereby and He removes from him one sin, until he enters the masjid. And when he enters the masjid, he is in Salāh so long as (the Salāh) keeps him (in the masjid); and the angels pray over him for as long as he is in his sitting-place in which he will pray. [The angels say]:

‘O Allah, forgive him! O Allah, have mercy on him!’” Hence, Salāh in the masjid is a great means of forgiveness and gaining nearness to Allah Ta‘ālā.

Fifthly, recite this du‘ā’ frequently, begging Allah Ta‘ālā for His fear and to protect you thereby from sin:

اللهم إني أسألك من خشيتك ما تحول به بيني وبين معصيتك

Allaahumma innee as'aluka min khashyatika maa taool bihee baynee wa bayna ma'iyatik

“O Allah! Verily, I ask You from Your fear that which will become a barrier between me and Your disobedience.”

The only way to stop deep-rooted and entrenched sins is to develop the fear of Allah Ta‘ālā. This will come by keeping the company of the pious and by working to develop it within yourself. With regards to Salāt al-Tawbah.

Sayyidunā Abū Bakr al-Siddīq (radiyAllāhu ta‘ālā ‘anh) narrated from Nabī (sallAllāhu ‘alayhi wasallam):

ما من رجل يذنب ذنباً فيتوضأ فيحسن الوضوء ثم يصلي ركعتين فيستغفر الله عز وجل إلا غفر له

“No man commits a sin, then performs wudū’, and perfects the wudū’, then prays two rak‘ahs, and then begs Allah – Great and Glorious is He – for forgiveness, except he will be forgiven.”

Its procedure is to perform two rak‘ahs of nafl prayer, and then make du‘ā’ to Allah, saying: “O Allah, I seek Your forgiveness from such-and-such a sin. I will never return to it.”

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CELL PHONE TOWER ON THE PROPERTY OF THE MASJID

Q: MTN requested to erect a reception tower on our Masjid for which a rental will be received. Is it permissible if it is placed on the Minaarat (which is part of the masjid). What if it is placed on the Sahn?

A: We have come to the conclusion that it is not feasible to place a cell phone tower on any part of the Masjid property due to the following reasons:

- 1) It is against the sanctity of the Masjid.
- 2) It does not provide any true benefit to the purpose of maintaining the Masjid (i.e. prayer and ease for musallis).
- 3) It allows the Masjid to become a hub for promoting impermissible activities via the internet.

Details of this discussion have been provided below.

Placing a Cell Phone Tower on the Property of a Masjid

The issue under question requires us to approach the matter from three dimensions:

- 1) Legal rulings pertaining to adding structures to the Masjid or finā'.
- 2) Legal rulings pertaining to using the Masjid, the finā', or any structures found within either as a source of income by lending it out under a contract of Ijārah.
- 3) The moral aspect of using a sanctified property as a hub and source for worldly affairs (i.e. via the internet).

Issue I: Adding structures to the Masjid or finā' (sahn)

Masjid: In terms of similarity, the structure that most closely represents a cell phone tower is a minaret. In regards to adding a minaret, 'Allāmah Ibn Nujaym (rahimahullāh) mentions in his Al-Bahr al-Rāiq:

الثَّامِنَةُ فِي وَقْفِ الْمَسْجِدِ أَيْجُوزُ أَنْ يُبْنَى مِنْ غَلَّتِهِ مَنَارَةٌ قَالَ فِي الْخَانِيَّةِ مَعْرِيًّا إِلَى أَبِي بَكْرٍ الْبَلْخِي إِنْ كَانَ ذَلِكَ مِنْ مَصْلَحَةِ الْمَسْجِدِ بَأَنْ كَانَ أَسْمَعُ لَهُمْ فَلَا بَأْسَ بِهِ وَإِنْ كَانَ يَحَالٍ يَسْمَعُ الْجِيرَانُ الْأَذَانَ يَغْيِرُ مَنَارَةٌ فَلَا أَرَى لَهُمْ أَنْ يَفْعَلُوا ذَلِكَ (البحر الرائق، ج ٥، ص ٥١٢، إيج ايم سعيد كمبني)

Similarly, it is also mentioned in Al-Fatawā al-Hindiyyah:

وَيَجُوزُ أَنْ يُبْنَى مَنَارَةٌ مِنْ غَلَّةٍ وَقَفِ الْمَسْجِدِ إِنْ اِحْتَأَجَّ إِلَيْهَا لِيَكُونَ لِلْجِيرَانِ وَإِنْ كَانُوا يَسْمَعُونَ الْأَذَانَ يَدُونِ الْمَنَارَةَ فَلَا كَدًّا فِي خِرَاطَةِ الْمُفْتِيِّنَ (الفتاوى الهندية، ج ٢، ص ٢٦٤، مكتبة رشيدية)

'Allāmah Burhān al-Dīn (rahimahullāh) also sums this up in the following words:

في هذا الكتاب أيضاً: سئل أبو بكر عن بناء المنارة من غلة المسجد قال: إن كان البناء مصلحة للمسجد * وتفسير المصلحة أن يكون أسمع للقوم * يجوز، وإن لم يكن في البناء مصلحة للمسجد * وتفسيره أن يكون المسجد في موضع يسمع جميع أهله الأذان من غير المنارة * (المحيط البرهاني، ج ٩، ص ٥٣١، إدارة القرآن)

It is clear from above that the fuqahā' have allowed a minaret to be constructed only if there is a maslahah for the Masjid itself. From the example given, we can see that this maslahah refers to a Shar'ī maslahah that is intertwined with the purpose of the Masjid itself (i.e. prayer and ease for the musallīs) as stated in Fatāwā Rahīmīyyah and Khayr al-Fatāwā . Since constructing a cell phone tower contains no benefit for the musallīs; rather it may divert the musallīs from prayer if they are avid cell phone users, it does not seem feasible to place a cell phone tower atop the Masjid. Furthermore, Mufti

Mahmūd Gangohī (rahimahullāh) states in his Fatawā Mahmūdiyyah that once the intention for a Masjid has been made, then everything above it and below it is a Masjid also; therefore, it is not correct to make a structure within the Masjid that will be used as a source of income. Mawlānā Lājpūrī (rahimahullāh) also states something to the same effect in his Fatawā Rahīmiyyah. He also mentions elsewhere that constructing a billboard on top of the Masjid is also not permissible even if the Masjid is recompensed for it.

Finā': If it is not feasible to construct such a structure atop the Masjid, is it possible to do so in the finā' (or sahn) of the Masjid? Moreover, are structures that are constructed in the finā' in the same ruling as the Masjid itself in terms of sanctity?

It is stated in Al-Fatāwā al-Hindiyyah:

قِيمُ الْمَسْجِدِ لَا يَجُوزُ لَهُ أَنْ يَبْنَى حَوَانِيتَ فِي حَدِّ الْمَسْجِدِ أَوْ فِي فَنَائِهِ لِأَنَّ الْمَسْجِدَ إِذَا جُعِلَ حَانُوتًا وَمَسْكَنًا تَسْقُطُ حُرْمَتُهُ وَهَذَا لَا يَجُوزُ وَالْفَنَاءُ تَبْعُ الْمَسْجِدِ فَيَكُونُ حُكْمُهُ حُكْمَ الْمَسْجِدِ كَذَا فِي مُحِيطِ السَّرْحِيِّ (الفتاوى الهندية، ج ٢، ص ٢٦٤، مكتبة رشيدية)

From the `ibārah above it is understood that the finā' of a Masjid also takes the ruling of the Masjid in terms of sanctity; therefore, anything that will go against the sanctity of the Masjid should not be constructed within the finā' of the Masjid either. Mufti Mahmūd (rahimahullāh) states in his Fatawā that constructing a structure within the finā' of the Masjid goes against the sanctity (or hurmah) of the Masjid. Mawlānā Lājpūrī (rahimahullāh) has also stated the same in his Fatāwā Rahīmiyyah. In regards to constructing a well in the finā', Mufti Mahmūd Gangohī states in his Fatāwā Mahmūdiyyah that not only is it against the purpose and maslahah of the Masjid, i.e. Salāh, it also has the possibility of bringing more filth into the Masjid. We may also say the same for a cell phone tower in terms of allowing negative data to flow electronically through the tower as will be discussed later.

We may also approach the aspect of adding a cell phone tower by analogizing it with the ruling of planting a tree or adding plants into the finā' of a Masjid. The following `ibārāt may shed some light on this matter:

قَالَ فِي الْخُلَاصَةِ: غَرَسُ الْأَشْجَارِ فِي الْمَسْجِدِ لَا بَأْسَ بِهِ إِذَا كَانَ فِيهِ نَفْعٌ لِلْمَسْجِدِ، بَأْن كَانَ الْمَسْجِدُ ذَا نَرْزٍ وَالْأَسْطُوَانَاتُ لَا تَسْتَقِرُّ بِذَوْنِهَا وَبَذُونِ هَذَا لَا يَجُوزُ. اهـ. وَفِي الْهِنْدِيَّةِ عَنِ الْعَرَائِبِ: إِنْ كَانَ لِنَفْعِ النَّاسِ بِظِلِّهِ، وَلَا يُضَيِّقُ عَلَى النَّاسِ، وَلَا يُفَرِّقُ الصُّفُوفَ لَا بَأْسَ بِهِ، وَإِنْ كَانَ لِنَفْعِ نَفْسِهِ بِوَرَقِهِ أَوْ ثَمَرِهِ أَوْ يُفَرِّقُ الصُّفُوفَ، أَوْ كَانَ فِي مَوْضِعٍ تَقَعُ بِهِ الْمُشَابَهَةُ بَيْنَ الْبَيْعَةِ وَالْمَسْجِدِ يُكْرَهُ. اهـ.

(رد المحتار على الدر المختار، ج ١، ص ١٦٦، إيج ايم سعيد كميني)

سئل الفقيه أبو جعفر...فيمن غرس الأشجار في المسجد؛ إن كان يفعل ذلك للظل، لا بأس، وإن كان يفعل ذلك لبيع الأوراق أو لمنفعة أخرى يكره إذا كانت تضيق على الناس مسجدهم لصلاتهم، أو يقع فيه تفريق الصفوف، قال: بلغنا أن عمر رضي الله عنه قطع شجرة كانت في قرب الكعبة، وكانت تضيق على القوم في طوافهم، ورأيت مسألة الأغراس في المسجد في موضع آخر، وكان جواب المسألة ثمة أنه إن كان للمسجد فيها نفع لا بأس به، وما لا فلا، ونفع المسجد أن يكون المسجد إذا ترك وأساطينه لا يستقر، فيغرس الأشجار ليجذب ذلك عروقها، وإن كان كذلك تجوز، وما لا فلا؛ وهذا لأن غرس الأشجار في المسجد تشبیه له بالبيعة، فلا يجوز ذلك إلا لحاجة، قالوا: ومشايخ بخارى إنما جوزوا ذلك في جامع بخارى لهذه الحاجة.

(المحيط البرهاني، ج ٨، ص ٨، إدارة القرآن)

From the above texts, the conditions for planting a tree (or flower) within the boundaries of a Masjid may be summarized as follows:

- 1) There is benefit in it for the Masjid
- 2) It does not create an obstruction for the musallis in carrying out their prayers
- 3) It does not create a partition between the rows for prayer

In reference to a cell phone tower, although conditions two and three may be circumvented through architectural means, it is still difficult to classify the placement of a cell phone tower as a “maslahah” for the Masjid even if the Masjid is recompensed through it by monetary gains. Nevertheless, even if we were to consider such a thing as a benefit for the Masjid, it is quite farfetched to analogize a giant metal

structure with a tree or flower planted in a Masjid. As a final statement, Mufti Mahmūd Gangohī (rahimahullāh) states in his Fatāwā Mahmūdiyyah that it is not correct to place anything inside the Masjid or finā' that may be used for advertising a business, which in this case would refer to the mobile telecommunications company, MTN.

Issue II: Lending out parts of the Masjid or finā':

According to the general principles of waqf, it is permissible to rent out a piece of land from the waqf and receive rent from it especially if it is for the sake of the Masjid. Nevertheless, since our query relates to building an actual structure, we shall discuss the details of this issue in that context.

Allāmah Haskafī and 'Allāmah Ibn 'Ābidin (rahimahumallāh) comment on this as follows:

[قال الحصكفي] [فَرَعَ] لَوْ بَنَى فَوْقَهُ بَيْتًا لِلْإِمَامِ لَا يَضُرُّ لِأَنَّهُ مِنَ الْمَصَالِحِ، أَمَّا لَوْ مَثَّ الْمَسْجِدِيَّةُ ثُمَّ أَرَادَ الْبِنَاءَ مُنْعَ وَلَوْ قَالَ عَنَيْتَ ذَلِكَ لَمْ يَصْدُقْ تَنَازُلًا، فَإِذَا كَانَ هَذَا فِي الْوَاقِفِ فَكَيْفَ بَغْيِهِ فَيَجِبُ هَدْمُهُ وَلَوْ عَلَى جِدَارِ الْمَسْجِدِ، وَلَا يَجُوزُ اخْتُدُّ الْأُجْرَةُ مِنْهُ وَلَا أَنْ يَجْعَلَ شَيْئًا مِنْهُ مُسْتَعْلًا وَلَا سَكْنَى بَرَّازِيَّةً.

[قال ابن عابدين] قُلْتُ: وَبِهِ حُكْمٌ مَا يَصْنَعُهُ بَعْضُ جِيرَانِ الْمَسْجِدِ مِنْ وَضْعِ جُدُوعٍ عَلَى جِدَارِهِ فَإِنَّهُ لَا يَجِلُّ وَلَوْ دَفَعَ الْأُجْرَةَ... قُلْتُ: وَبِهَذَا عَلِمَ أَيْضًا حُرْمَةُ إِحْدَاثِ الْخَلَوَاتِ فِي الْمَسَاجِدِ كَالَّتِي فِي رِوَاقِ الْمَسْجِدِ الْأَمْوِيِّ، وَلَا سِيَّمَا مَا يَتَرْتَّبُ عَلَى ذَلِكَ مِنْ تَقْذِيرِ الْمَسْجِدِ بِسَبَبِ الطَّنِخِ وَالْغَسَلِ وَنَحْوِهِ وَرَأَيْتُ تَأْلِيلًا مُسْتَقِيلًا فِي الْمَنْعِ مِنْ ذَلِكَ.

(رد المحتار علي الدر المختار، ج ٤، ص ٨٥٣، إيج ايم سعيد كمبني)

The above statements make it clear that it is incorrect to build something on the premises of or atop the Masjid even if it is let out for rent. In reference to a similar situation, Mawlānā Lājpūrī (rahimahullāh) states that it is not feasible to place a billboard on the Masjid even if the Masjid receives rent from it. Mufti Mahmūd Gangohī (rahimahullāh) has also made a similar statement regarding the advertising of a radio station through a billboard by placing it on the Masjid property. Elsewhere, he has also mentioned that renting

out anything above or below the Masjid area is against the sanctity of the Masjid itself. Furthermore, companies such as MTN typically work on a contract basis where the Masjid will be forced to let out their property for a lengthy period of time. It is stated in Al-Fatāwā al-Hindiyyah that letting out waqf property for long periods of time is not permitted as it may lead to depriving the waqf from its intended use by expropriating the property to another through a binding agreement. Mawlānā Lājpūrī (rahimahullāh) states in his Fatāwā Rahīmiyyah that letting out a part of the Masjid for a long period of time forces the Masjid to reserve a part of the property for the lessees. In such a case, if the Masjid ever has a need to use that part of the land in the future, they will be incapable of doing so as they will be bound to the rental agreement. It is apparent that this clearly goes against the maqāsid (aims and objectives) of a Masjid.

Issue III: Moral aspect of using a sanctified property for worldly affairs”

It is quite apparent to all mobile users that due to the technological advances in our times, mobile phones have become capable of much more than simply being used as communication devices. With the invention of smart phones, telecommunication companies have revamped their technologies to meet the needs of its customers by allowing them to connect to the internet and use their mobile phones for many purposes other than making simple phone calls.

Smart phones today offer users a wide array of uses such as instant messaging, surfing the internet, streaming audio and video, and linking up with many others through social media applications. It goes without saying that while the power of the internet allows one to use it for productive reasons, it is also a means of engaging in many activities looked down upon by Sharī`ah such as pornography, flirting with the opposite gender, and wasting countless hours on the

internet by allowing it to force one to neglect one's Islamic duties. By allowing MTN to place a tower on the Masjid property, the Masjid itself becomes a source for allowing such activities to take place by becoming a hub for connecting to the internet. In reference to a similar situation, Mufti Mahmūd Gangohī (rahimahullāh) has disallowed the Masjid from placing a billboard on the Masjid property that advertises an upcoming movie. He further says that this will constitute i'ānah `alā al-ma'siyah (aiding in sin) as the Masjid is becoming a means for promoting an impermissible activity. Even though (in our scenario) the Masjid is not promoting such activities, it is becoming a means of allowing people to watch immoral videos online.

In conclusion, it is not feasible to place a cell phone tower on any part of the Masjid as it violates the sanctity of the Masjid and allows the Masjid to become a means of engaging in harām activities.

Fatawā Rahīmiyyah, v. 9 p. 119, Dārul Ishā`at
Khayr al-Fatawā, v. 2 p. 769, Maktabah Imdādiyyah
Fatawā Mahmūdiyyah, v. 14 p. 528, Darul Iftaa Jāmi`ah Fārūqiyyah
Fatawā Rahīmiyyah, v. 9 p. 93, Dārul Ishā`at
Ibid., p. 168

Fatawā Mufti Mahmūd, v. 1 p. 534
Fatawā Rahīmiyyah, v. 9 p. 132, Dārul Ishā`at
Fatawā Mahmūdiyyah, v. 14 p. 553, Darul Iftaa Jāmi`ah Fārūqiyyah
Fatawā Mahmūdiyyah, v. 14 p. 657, Darul Iftaa Jāmi`ah Fārūqiyyah
Fatawā Mahmūdiyyah, v. 14 p. 613, Darul Iftaa Jāmi`ah Fārūqiyyah
وَإِذَا دَفَعَ أَهْلُ الْوَقْفِ مَرْأَةً يَجُوزُ إِذَا لَمْ تَكُنْ فِيهِ مُخَابَاةٌ قَدَرٌ مَا لَا يَتَغَايَرُ النَّاسُ فِيهَا وَكَذَلِكَ لَوْ دَفَعَ مَا فِيهَا مِنَ التَّجِيلِ مُعَامَلَةً يَجُوزُ
(الفتاوى الهندية، ج ٢، ص ٣٢٤، مكتبة رشيدية)

Fatawā Rahīmiyyah, v. 9 p. 121, Dārul Ishā`at
Fatawā Rahīmiyyah, v. 9 p. 168, Dārul Ishā`at
Fatawā Mahmūdiyyah, v. 14 p. 615, Darul Iftaa Jāmi`ah Fārūqiyyah
616 p. ,dibl

قَالَ مَعْنَى الَّذِي لِأَجْلِهِ اسْتَحْسَنَ الْمَشَايِخُ أَنَّ لَا تَجُوزَ الْإِجَارَةُ الطَّوِيلَةُ عَلَى الْوَقْفِ وَهُوَ أَنَّ لَا يُؤَدِّي إِلَى إِنْطِلَالِ الْوَقْفِ
(الفتاوى الهندية، ج ٢، ص ٣٢٤، مكتبة رشيدية)

Fatawā Rahīmiyyah, v. 9 p. 142-143, Dārul Ishā`at
Fatawā Mahmūdiyyah, v. 14 p. 620, Darul Iftaa Jāmi`ah Fārūqiyyah

LEAVING OUT SALAAH BECAUSE OF NO ENJOYMENT

Q: For about a year now, my wife and I are having problems with regards to our Islamic Lifestyle. Alhamdulillah, previously, we were very very punctual and even performed our Qadhaa if we missed Salaah. We were more conscious Deeni wise and tried our best to stay away from evil. Last year March, my wife had a miscarriage and since then things have just been going downhill. Our Salaahs get missed as if it is nothing. We have both discussed this issue and we both feel regret and remorse for missing our Salaahs but both of us have experienced that something inside is making us feel this way and stopping us from performing our Islamic duties.

Everything in our life has also been going downhill in terms of life situations. People have been making problems and saying certain untrue bad things about my Mother. My Father cannot find a job. With regards to Salaah, both my wife and I feel this, that even when we do try to pray Salaah with full and proper concentration, there is no feeling of Salaah. What we use to feel before, love, contentment and happiness with Allaah Taalaa has dissappeared. I hardly pray Salaah with Jamaat in the Masjid and most of the time I don't even pray Salaah at all except Jummuah and that too I feel like running out of the Masjid as quickly as possible.

Respected Mufti/Sheikh, I beg of you to please help us as this is really getting out of hand. Everytime my wife and I discuss this issue we say that we will change tomorrow but it never happens. We have tried to improve but it just never happens. Something feels like it is blocking us from happiness. We live with my Mum and Dad and they too hardly ever pray Salaah and they too have the same feeling of blockage. We hardly ever pray Quraan where we used to read quite a lot before. Previously, we hardly used to watch TV but now it

has become a norm. Our Sexual life has also taken a downward turn as we both cannot and do not feel what we used to feel before. We cannot fall pregnant since the miscarriage. My Mum and I will fight and shout at each other for silly stupid things. My Mum is having a problem with one of her cousins whom she owes money too. We are going to pay him and we have the money. But he keeps on making her life a misery and this too causes friction in the family as this is what my Mum talks about all the time. My Dad suffers from Bi Polar Disorder but sometimes he will cause silly and stupid fights in the family and say really silly and inappropriate things. We also eat a lot more than before. As a family we are always hungry and looking for things to eat. Our money comes in for the month and the next thing we know it is gone. We are always having money problems. Everything just seems to be spiralling out of control. Our lives are such a mess. I do not know what to do.

What could the problem be? I am so confused? I didn't want to believe that this could be Sihr or Jadoo or Jinns but could this be? Should I go to see someone who can take these evil things out of us? Please make me Maaf Respected Mufti/Sheikh for this long email and for bothering you, I am really sorry. I just want to improve myself and my family and need your valuable advice to guide me?

A : In diagnosing your situation, it appears you all have made your religious duties, Salah, Zikr etc. secondary to your worldly condition. If you experience favourable conditions, you execute your religious responsibilities properly. In adverse conditions, you failed to execute your religious obligations. The solution to your retrogression in Deeni obligations is to change your attitude. Give priority to religious obligations at all times. Do not make that subservient to worldly conditions. Consider the Hadith,

مَنْ كَانَتْ الدُّنْيَا هَمَّهُ فَرَّقَ اللَّهُ عَلَيْهِ أَمْرَهُ وَجَعَلَ فَقْرَهُ بَيْنَ عَيْنَيْهِ وَلَمْ يَأْتِهِ مِنَ الدُّنْيَا إِلَّا مَا كُتِبَ لَهُ وَمَنْ كَانَتْ
الْآخِرَةُ نِيَّتَهُ جَمَعَ اللَّهُ لَهُ أَمْرَهُ وَجَعَلَ غِنَاهُ فِي قَلْبِهِ وَأَتَتْهُ الدُّنْيَا وَهِيَ رَاغِمَةٌ

The Messenger of Allah (salallahu alayhi wasallam) said: “Whoever is focused only on this world, Allah will confound his affairs and make him fear poverty constantly, and he will not get anything of this world except that which has been decreed for him. Whoever is focused on the Hereafter, Allah will settle his affairs for him and make him feel content, and his provision and worldly gains will undoubtedly come to him.” (Ibn Majah 4105)

You also complain about not enjoying Ibadah. Remember enjoying Ibadah is praiseworthy but is not the purpose. We worship Allah because of Allah and His right to be worshipped. We do not worship Allah for self-enjoyment. Yes, enjoying Ibadah helps in executing the obligation. At times, Shaitan misleads us and we begin worshipping Allah for self-enjoyment. When that feeling is lost, we stop worshipping Allah. In that case, the critical question is to ask is who did we worship? Allah or our Nafs?

Our Ulama have stated that there is greater Ajr and reward in worshipping Allah when we feel a sense of despondency and narrowness in the heart, as now one is truly worshipping Allah Ta’ala.

Your feeling of being down and out is the same. Now is the time to pick up yourself and worship Allah for the sake of Allah, not yourself. Difficult and challenging situations are inevitably experienced by everyone at some point in life. These conditions are tests from Allah Ta’ala in order to elevate their status and increase their blessings.

Rasulullah Sallallahu Alahi Wa Sallam said,

أَنَّ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا زَوْجَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَتْ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَا مِنْ مُصِيبَةٍ تُصِيبُ الْمُسْلِمَ إِلَّا كَفَرَ اللَّهُ بِهَا عَنْهُ حَتَّى الشُّوْكَةِ يُشَاكُّهَا (المسلم)

“There is no difficulty that happens to a Muslim except that Allah removes a sin because of it even if a thorn pricks him and even to that degree.” (Muslim (5640

It is of utmost importance that when we are faced with hardships, these tests and difficulties bring us closer to Allah and increase us in Ibadaat and refraining from wrong. By enduring these hardships and having Sabr (patience) and Itisāb (anticipating the reward from Allah) one's sins can be purified and luxurious positions be gained in Jannah.

Remember that discarding Salaah without any valid reason is a grave sin. Consider the following Ahadith:

سمعت جابرا يقول سمعت النبي صلى الله عليه وسلم يقول « إن بين الرجل وبين الشرك والكفر ترك الصلاة ».

It has been narrated on the authority of Jabir (Radhiyallahu Anhu) that he heard Nabi (Sallallahu Alaihi Wasallam) saying, “Discarding out Salaah leads one to kufr and shirk”. (Sahih Muslim)

عن عبد الله بن بريدة عن أبيه قال قال رسول الله صلى الله عليه وسلم « العهد الذي بيننا وبينهم الصلاة فمن تركها فقد كفر ».

It has been narrated on the authority of Buraidah (Radhiyallahu Anhu) that Nabi (Sallallahu Alaihi Wasallam) said, “The pledge between the infidels and us is Salaah, and whoever leaves it out has left the fold of Islam”. (Jami’ Al Tirmizi)

Our advice is to turn to Allah Ta'ala with full devotion and sincerity, for it is only through His help and Tawfeeq one is able to overcome difficulties. Supplicate to Allah and ask Him to make it easy for you to establish Salah in a manner that is most pleasing to Him, for surely, He answers the prayers of those who turn to Him. Allah Ta'ala says,

“And seek help through patience and prayer, and indeed, it is difficult except for the humbly submissive [to Allah]“ [2, 45].

Also ensure there is a Deeni environment in the house. It may be an idea to commence Taleem in your house. An appropriate book on the character of Rasululallah Sallallahu Alahi Wasallam and his Sunnahs be chosen to read daily for about five to ten minutes, in which all family members take part. This will bring Barakah and unity in the house.

NAWAFIL SALAAH

Q: I would like ask some questions about expanding my salat. For example, salats that aren't fard but are recommending to pray such as Salāt al-Dhuhā, Salatul Hajat, and how to pray them and what time to pray them. Also if there is any other salats like them can you tell me of them and the virtues of praying them?

A: It is pleasing to note that you wish to increase your Ma'mulaat (daily practices). May Allah Ta'ala keep you steadfast. You may include the following Nafil Salahs into your daily Ma'mulaat (practices):

1. Tahajjud Salaah: This is the most virtuous of all Nafil Salaahs .
Nabi (Sallallāhu Alaihi Wasallam) has mentioned,

“افضل الصلاة بعد الفريضة صلاة الليل”

Translation: “The best Salah after the compulsory (Fardh) Salahs is the night prayer”

“عليكم بقيام الليل، فانه دأب الصالحين قبلكم، وقربة الي ربكم ، ومكفرة للسيئات، ومنهاة عن الإثم” (ترمذي كتاب الدعاء)

Translation: “Hold fast to the night prayer, indeed it is the trait of the pious predecessors, it is a means of nearness to your Lord, and it is an expiation for sins and a barrier from sins.”

The most virtuous time to pray Tahajjud is the last portion of the night.

2. Ishraq: Nabi (Sallahu Alaihi Wasallam) has mentioned regarding Ishraq,

“من صلى الغداة في جماعة ثم قعد يذكر الله حتى تطلع الشمس، ثم صلى ركعتين كانت له كأجر حجة وعمره، قال: قال رسول الله صلى الله عليه وسلم: تامة تامة تامة”

Translation: “Whosoever performs the Morning Prayer (Fajr) with Jamā'ah then remains seated and makes Dhikr until sunrises then he performs two Rakahs he will gain reward similar to Haj and Umrah.”
Rasulullāh mentioned, “A complete (Haj and Umrah), complete, complete.”

قال: سمعت رسول الله صلى الله عليه وسلم يقول: ” يقول الله عز وجل: يا ابن آدم، لا تعجزني من أربع ركعات في أول نهارك، أكفك آخره“

Translation: I heard the Messenger of Allah (sallallahu alayhi wasalam) say: “Allah, the Exalted, says: Son of Adam, do not be fail Me in performing four Rakahs at the beginning of the day: I will supply what you need till the end of it.”

The time for performing Salah al-Ishraq commences approximately twenty minutes after sunrise when the sun is above the horizon approximately to the length of a spear and the sun becomes very bright so much so that it becomes difficult to directly look at with the naked eye and ends at mid-morning (halfway between sunrise and zenith approximately 9 am in South Africa). However, it is more virtuous to observe it immediately after its time sets in. (After sunrise, 12-15 minutes or cautiously 20 minutes)

The minimum Rakahs that can be performed for Ishraq are two and the maximum is four.

3. Salaat Al Dhuha: Nabi (Sallahu Alaihi Wasallam) has mentioned regarding Salaat al- Duha,

عن ابي هريرة رضي الله عنه قال: اوصاني خليلي صلي الله عليه وسلم بصيام ثلاثة ايام من كل شهر، وركعتي الضحي، وان اوتر قبل ان ارقد.

Translation: Abu Hurairah (Radhiyallahu Anhu) has narrated, “My intimate friend (Nabi) Sallahu Alaihi Wasallam bequeathed to me that I fast three days every month, and that I pray the two Rakahs of Duha, and that I perform my Witr before I sleep”

The time for Salah al-Dhuha prayer (Chasht prayer) is after the time of Salah al-Ishraq, from mid-morning, until mid-day (Zawal). It is more virtuous to observe it after a quarter of the day has passed.

The minimum Rakahs for Salaah al Duha (Chasht) are two and the maximum is twelve.

4. Awwabeen: The six Rakahs after the Maghrib Salah is called the Salatul Awabeen. It is mentioned in a Hadith,

”من صلى بعد المغرب ست ركعات لم يتكلم فيما بينهم بسوء عدلن له بعبادة ثنتي عشرة سنة“

Translation: “Whosoever performs six Rakahs after Maghrib, and he does not speak bad between them, they will be made equal to twelve years of worship” The minimum Rakahs of Salaat al-Awabeen are six (including the Sunnah Muakkadah) and the maximum is twenty Rakahs.

5. Tahiyatul Masjid: This Nafil Salah is offered as respect and reverence for the masjid upon entering the Masjid. These two Rakahs can be read any time of the day except the Makrooh times.

Nabi (Sallallahu Alaihi Wasallam) has mentioned,

”إذا دخل أحدكم المسجد فليركع ركعتين قبل أن يجلس“

Translation: “When one of you enters the masjid, he should perform two Rakahs before he sits”

عن جابر بن عبد الله رضي الله عنهما، قال: ”أتيت النبي صلى الله عليه وسلم وهو في المسجد فقال: صل ركعتين“

Translation: Jabir Ibn Abdullah (Radhiyallahu Anhumah) narrates, “I came to Nabi (Sallahu Alaihi Wasallam) while he was in the masjid. He then instructed me to perform two Rakahs (Due to entering the Masjid).

6. Tahiyatul Wudhu: It is Mustahabb to perform Tahiyatul Wudhu. This Nafl Salaah should be performed immediately after one performs Wudhu before the limbs dry.

Nabi (Sallahu Alaihi Wasallam) has mentioned,

عن أبي هريرة رضي الله عنه: أن النبي صلى الله عليه وسلم قال لبلال: «عند صلاة الفجر يا بلال حدثني بأرجى عمل عملته في الإسلام، فأني سمعت دف نعليك بين يدي في الجنة» قال: ما عملت عملاً أرجى عندي: أني لم أتطهر طهوراً، في ساعة ليل أو نهار، إلا صليت بذلك الطهور ما كتب لي أن أصلي ”

Translation: Abu Hurairah (Radhiyallahu Anhu) narrates that Rasūlullah (Sallallahu Alaihi Wasallam) said to Bilal, He said to Bilal: “Oh Bilal, tell me the action that you performed during Islam that you have most hope in, because I heard your footsteps in front of me in Paradise.” He said: “I did not perform an action more hopeful to me than [the practice] that I do not perform purification in any moment of the evening or morning except I offer with that purification whatever is prescribed for me to pray.”

7. Salaat al-Tasbeeh: The importance of Salaat al- Tasbeeh can be realised from the following Hadith:

”إن استطعت أن تصلّيها في كل يوم مرة فافعل، فإن لم تفعل ففي كل جمعة مرة، فإن لم تفعل ففي كل شهر مرة، فإن لم تفعل ففي كل سنة مرة، فإن لم تفعل، ففي عمرك مرة ”،

Translation: “If you have the ability to perform it once everyday, then do so. If you cannot do this, then perform it once every week. If you cannot do so then perform it once every month. If you are unable to do this then perform it once a year. If you cannot do this, then perform it once in your lifetime.”

The method of performing Salaat al-Tasbeeh is as follows:

Commence the Salah by making Niyyah of four Rakahs. After Thana one should recite the Tasbeeh “Subhanallahi Walhamdu Lillahi Wa laa Ilaha illallahu Wallahu Akbar” fifteen times. Then, after the Qira’ah before the Ruku’ recite the Tasbeeh ten times (this is twenty five so far). Thereafter, in the Ruku’ after Subhana Rabiyaal Azeem one should recite ten Tasbeehs. Then in Qawma recite ‘Rabana lakal Hamd’ and recite ten Tasbeehs. Then in Sajdah after ‘Subhana Rabiyaal A’ala’ recite ten Tasbeehs then in Jalsah recite ten Tasbeehs and in the second Sajdah recite ten Tasbeehs again. For each Rakah it should be seventy five Tasbeehs. In the second, third and forth Rakah recite the same fifteen before Surah fatiha and repeat the rest (Seventy five in each Rakah; total three hundred in all four Rakahs).

[Sahih Muslim, 2: 821, Hadith: 1163]

[Sunan Tirmizhi, 5: 444, Hadith: 3549]

The Ulema differ whether Salaat Al Ishraq and Salaat Al Duha both refer to one single Nafl or two independent Nafl prayers. The following scholars are of the opinion that they are two separate Nafl Prayers:

Imam Abu Hamid al-Ghazali
[Ihya’ al-Uloom al-Deen, 1: 227 Dar as-Salam]

Allamah Ala ud-Deen Ali Muttaqi Al Hindi has indicated that they are two separate Salahs by establishing two separate chapters for Salaat al-Ishraq and Salaat al-Duha in his famous book Kanzul Ummal.
[Kanzul Ummal]

Maulānā Ashraf Ali Thanvi
[Imdad ul- Fatawa, 6: 198, Maktabah Darul Uloom Karachi]

Allamah Zufar Ahmad Uthmani has discussed in detail the difference of the two Salaahs in his book I’laa Us-Sunan.
[I’laa Us-Sunan, 7: 29-30, Idaratul Qura’an]

Mufti Mahmud ul Hassan Gangohi
[Fatawa Mahmudiyyah, 21: 463; 5: 334, Dar al-Iftaa Jamiah Faruqiyyah, Karachi]

Mufti Rashid Ahmad Ludyanwi
[Ahsan al-Fatwa, 3: 465, H. M. Saeed Company]

Many other great scholars have also accepted this opinion.

[Sunan Tirmizhi, 1: 727, Hadith: 586]

[Sunan Abi Dawud, 2: 27, Hadith: 1289]

عند طلوع الشمس إلى أن ترتفع الشمس وتبيض قدر ربح أو معين

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 1: 371, H. M. Saeed Company; Mahmudiyyah, 5: 334, Dar al-Iftaa Jamiah Faruqiyyah, Karachi]

[Fatawa Rahimiyyah, 4: 82, Dar al-Isha`at, Karachi]

[Fatawa Mahmudiyyah, 21: 463; 5: 334, Dar al-Iftaa Jamiah Faruqiyyah, Karachi]

[Ahsan al-Fatwa, 3: 465, H. M. Saeed Company]

[Sahih Muslim, 1: 489, Hadith: 721]

قال في العلائق وندب أربع فصاعدا في الضحى على الصحيح من بعد الطلوع إلى الزوال ووقتها المختار بعد ربع النهار
[Radd al-Muhtar ala ad-Durr al-Mukhtar, 1: 639]

[Hashiya At Tahtawi Ala Maraqqiy al Falah, 1: 538, Dar Al Quba]

[Ahsan al-Fatwa, 3: 467, H. M. Saeed Company]

[Ahsan al-Fatwa, 3: 465, H. M. Saeed Company]

حدثنا أبو كريب يعني محمد بن العلاء الهمداني الكوفي، قال: حدثنا زيد بن الحباب، قال: حدثنا عمر بن أبي خثعم، عن يحيى بن أبي كثير، عن أبي سلمة، عن أبي هريرة، قال: قال رسول الله صلى الله عليه وسلم: من صلى بعد المغرب ست ركعات لم يتكلم فيما بينهن بسوء عدلن له بعبادة ثنتي عشرة سنة. وقد روي عن عائشة، عن النبي صلى الله عليه وسلم قال: من صلى بعد المغرب عشرين ركعة بنى الله له بيتا في الجنة. حديث أبي هريرة حديث غريب، لا نعرفه إلا من حديث زيد بن الحباب، عن عمر بن أبي خثعم، وسمعت محمد بن إسماعيل يقول: عمر بن عبد الله بن أبي خثعم منكر الحديث وضعفه جدا.

[Sunan At Tirmizhi, 5: 559 Bashaar]

[Sunan Ibn Majah, 1: 369, Hadith: 1167]

[Fatawa Mahmudiyyah, 7: 206, Dar al-Iftaa Jamiah Faruqiyyah, Karachi]

[Ahsan al-Fatwa, 3: 465, H. M. Saeed Company]

[Sahih al-Bukhari, 1: 96, Hadith: 444]

[Sahih Muslim, 1: 494, Hadith: 714]

[Sahih al-Bukhari, 1: 96, Hadith: 443]

[Sahih Muslim, 1: 495, Hadith: 715]

إِذَا دَخَلَ أَحَدُكُمُ الْمَسْجِدَ فَلْيَصِلْ وَكَعْتَيَّ قَبْلَ أَنْ يَجْلِسَ

[Sunan Ibn Majah, 1: 324, Hadith: 1013]

[Sahih al-Bukhari, 2: 53, Hadith: 1149]

[Sunan Abi Dawud, 2: 29 Hadith: 1297]

[Fatawa Mahmudiyyah, 7: 251, Dar al-Iftaa Jamiah Faruqiyyah, Karachi]

SAJD AH TILAWAH FOR RECORDING

Q: 1) If we are listening to recording of Quran over the FM, CD, Cell phone etc. and if sajdah ayah comes, do we have to perform sajdah? 2) In another scenario if we are listening to someone live over FM, not a recording, and then if sajdah ayah comes, do we have to perform sajdah tilawah?

A: 1) Sajdah Tilawah will not be performed when listening to an Ayah being recited in a recording. 2) Sajdah Tilawah will be performed when listening to a live recitation via FM, satellite, etc.

Ahsan ul Fatawa vol.4 pg.65, HM Saeed

و لا تجب بسماعها من الصدى و هو ما يجيبك مثل صوتك في الجبال و الصحارى ونحوها (مراقي الفلاح مع الطحطاوي ج ٣ ص ٢٩، دار قباء)
Fatawa Darul Uloom Zakariyya vol.2 pg.478, ZamZam

STUDENT THESIS

RULINGS RELATING TO THE DAY OF EID

VIRTUES* EID PRAYER & KHUTBAH * TAKBIR AL TASHRIQ
* SADAQATUL FITR* SUNNATS

BY: NABEEL VALLI - SECOND YEAR IFTAA STUDENT

INTRODUCTION:

Islam, being a complete way of life, has laid out a very balanced approach with regards to our day to day life. Just as it has guided us on matters relating to belief and worship, that form the core of religion, it has also stipulated days of celebration and merriment for us. However, since Islam aims at keeping every individual focussed towards its values, it has given guidelines and instructions to that are to be followed on these days of celebration as well. This makes Islam stand out amongst the other faiths; a day of celebration too becomes a form of worship!

THE MEANING OF EID:

The word 'Eid (عيد) is derived from the word عود (to return) since the day of Eid returns with joy, happiness, and enjoyment every year. In Islam, the concept of celebration is based on a religious achievement. Eid al-Fitr is celebrated as we accomplish fasting in Ramadhan and attain a degree of closeness to Allah. Eid al-Ad`ha is celebrated in remembrance of the great sacrifice offered by Prophet Ibrahim (peace be upon him) to sacrifice his son Prophet Isma`eel (peace be upon him) in submitting to the orders of Allah. The day of Eid is meant to instil in us this type of submission to Allah and His orders. Thus we should take this perfect opportunity of Eid to make a firm resolution to suppress our Nafs and submit to Allah.

INTRODUCTION TO EID PRAYER AND KHUTBAH:

The Eid Salah is Wajib on those whom Jumu`ah Salah is Wajib. The Khutbah of Eid differs from the Khutbah of Jumu`ah in two ways: Firstly, the Jumu`ah Khutbah is a condition for the validity of Jumu`ah prayer whereas the Khutbah of Eid Salaah is Sunnah and it is not a condition for the validity of Eid Salah. Secondly, the Jumu`ah Khutbah will be delivered prior to the Salaah while the Khutbah of Eid salaah will be delivered after the Salaah. Eid Salah is Wajib and the Khutbah is Sunnah.

SUNNATS AND MUSTAHAB (DESIRABLE) ACTS OF EID:

1. To wake up early and engage in worship (Tahajjud)
2. It is Sunnah to eat something sweet (preferably, dates) before proceeding for Eid al-Fitr Salah. It is Sunnah not to eat before Eid al-Ad`ha Salah and it is desirable to eat from the meat of the animals slaughtered before consuming anything else on Eid al-Ad`ha . However, if one eats before Eid al-Ad`ha Salah, it is permissible
3. To perform Ghusl (bath). The Ghusl should preferably be performed between sunrise and the Eid prayer
4. To apply fragrance
5. To brush the teeth using Miswak
6. To wear best clothes [or new clothes]
7. To give Sadaqah Fitr on Eid al-Fitr (before proceeding for the prayer)
8. To walk to the place of prayer if possible
9. To go to the place of prayer as early as possible and gain the reward of observing the prayer in the first row
10. To go to the place of prayer via one route and to return via another route
11. To express happiness by displaying obedience and gratitude to Allah

12. To smile at meeting a fellow believer
13. Offer charity
14. It is Sunnah Muakkadah for the place of Eid Salah to be in an (Eid Gah) plain field
15. To continuously read the Takbir at-Tashriq from home till the commencement of the actual Eid Salah
16. It is Sunnah to continuously read the Takbir quietly whilst going to the place of Salah (Eid Gah) on the day of Eid al-Fitr and to read it audibly on the day of Eid al-Ad`ha .

Allah says:

ولتكمّلوا العِدّة ولتكبّرُوا الله على ما هدّاكم

Translation: And complete the time and glorify Allah as He has guided you

ويذكروا اسم الله في أيام معلّومات

Translation: And they take the name of Allah within known days

THE EID SALAH:

The Eid Salah consists of two rak`ats of congregational prayer without any Adhan or Iqamah . The Salah will be performed in the same method as an ordinary prayer but with the addition of six extra Takbirs, and raising the hands with every extra Takbir .

The Eid Salah of al-Fitr and al-Ad`ha will be performed in exactly the same manner .The time for Eid Salah is after sunrise to mid-day .

It is desirable to hasten the Salah of Eid al-Ad`ha and to delay the Salah of Eid al-Fitr.

THE METHOD OF EID SALAH:

All those observing the Salah should make the niyyah of performing the Eid Salah which is Wajib behind the Imam. The Imam will say the first Takbir Tahrim[a] while lifting his hands and folding them. The followers will also say Allahu Akbar, raise their hands, then fold them below the navel and read Thana (praise of Allah)

The Imam and the followers will thereafter say three extra Takbirs, raising their hands with every Takbir and leaving them to the sides without folding them. There is nothing to be recited between the extra Takbirs. However, after the third extra Takbir, the Imam and followers will now tie the hands below the navel .

The Imam will then recite اعوذ بالله من الشيطان الرجيم, Surah al-Fatihah and any Surah, preferably, سُبْح اسم ربك الأعلى, and complete the rak`at as done in an ordinary Salaah. As the Imam stands up for the second rak`ah, he will recite Surah al-Fatiha followed by any other Surah, preferably, هل اتاك حديث الغاشية. The Imam will then recite the three extra Takbirs and the congregation will do the same.

When the Imam will say the Takbir the fourth time, the Imam will go into Ruku` and complete the Salaah as usual.

What if I come late for the Eid prayer?

If the Imam is reciting Surah al-Fatihah or another Surah in the first rak`at of Salah and a follower comes late and has missed the extra Takbirs, he should say the first Takbir Tahrima[a] and then the three extra Takbirs while the Imam is reciting and then follow the Imam as usual. If the follower joins the Imam in Ruku, he should say the extra Takbirs and then go down into Ruku` . However, if he fears missing

the rak`ah if he stays standing to say the extra Takbirs, he should go immediately into Ruku and recite the extra Takbirs in Ruku without raising the hands.

If the follower misses the first rak`ah of the Eid prayer, he should stand up after the salam of the Imam and read the Thana, Ta`awwuz, Tasmiyah, Surah al-Fatihah, another surah, and thereafter say the three additional Takbirs before going into Ruku and thereafter complete the Salaah as normal. If the follower reaches the congregation when the second rak`at has also been completed, he should join the Imam and stand up after the salam and observe the Eid prayer as normal.

DUA AFTER EID PRAYER:

It is permissible to make Dua after Eid Salah.

THE KUTBAH:

The Khatib will then deliver two Khutbahs. The Khatib should commence with the Takbir in the Khutbah of both Eids.

It is Sunnah to begin the first Kutbah with nine continuous Takbirs and the second Khutbah with seven Takbirs likewise.

The Khatib should address issues pertaining to Sadaqah al-Fitr on Eid al-Fitr and issues pertaining to al-Ad`ha, al-Ud`hiyah and Takbir at-Tashriq on Eid al-Ad`ha.

THE MEANING OF THE TAKBĪRĀT OF TASHRĪQ:

Takbīr means ‘to proclaim the greatness of Allāh’.

Tashrīq literally means ‘to cut and dry strips of meat in the sun’. It was the practice of the Arabs to preserve the Qurbānī meat by drying it in Minā in the days following Eid-ul-Adh`ha.

TAKBIR AT-TASHRIQ IN DETAIL

WORDS OF THE TAKBĪR:

The words of the Takbīr are:

اَللّٰهُ اَكْبَرُ اَللّٰهُ اَكْبَرُ، لَا اِلٰهَ اِلَّا اللّٰهُ وَاللّٰهُ اَكْبَرُ، اَللّٰهُ اَكْبَرُ وَلِلّٰهِ الْحَمْدُ

Transliteration: ‘Allāhu Akbar Allāhu Akbar, Lā Ilāha Illallāhu Wallāhu Akbar Allāhu Akbar Wa Lillāhi-al-Hamd.’

STATUS AND TIME OF THE TAKBĪR:

It is Wājib (necessary) to recite the Takbīr once immediately after the Fardh Salāh beginning with the Fajr Salāh on the ninth of Dhu-ul-Hijjah and ending with the Asr Salāh on the 12th of Dhu-ul-Hijjah, spanning over a total of 23 Salāhs.

UPON WHOM IS TAKBĪR WĀJIB?

Takbīr is Wājib upon every individual who performs the Fardh Salāh, whether it be with Jamā’ah (congregationally) or individually. It is also Wājib upon women and travelers.

THE TONE OF THE TAKBĪR:

The Takbīr should be recited by males in a loud voice. Females should recite softly.

IF THE IMĀM DOES NOT RECITE THE TAKBĪR:

The Takbīr is equally Wājib on the Imām and the Muqtadī. If the Imām does not recite the Takbīr, then the Muqtadīs should start reciting it. It is not necessary to wait for the Imām to start reciting. If the Imām walks away after the Salāh without reciting it, then too the Muqtadīs should recite it.

IF ONE FORGETS TO RECITE THE TAKBĪR:

If the Imām or Muqtadi forget to recite the Takbīr, then there are two scenarios to this:

1. After terminating Salāh, if one has not conversed with anyone nor has he left the Masjid and he remembers that he has not recited the Takbīr, then he may recite the Takbīr.

2. If he has conversed with somebody, or has left the Masjid, then he may not recite the Takbīr upon remembering.

Note: The time for the Takbīr is immediately after the Fardh Salāh. Any other action or deed after the Fardh Salāh will result in the expiry of the time of Takbīr.

TAKBĪR OF A MASBŪQ:

If one misses a Rakʿat or more behind the Imām (i.e. he is a Masbūq), then he will recite the Takbīr upon completion of his missed Rakʿāt. If he mistakenly happens to recite it with the Imām, then his Salāh will not be invalidated. He should complete it as normal and thereafter recite the Takbīr again.

IS THERE QADHĀ OF THE TAKBĪR?

If one performs Salāh and does not recite the Takbīr, then there is no Qadhā for him except in the abovementioned scenario. However, if one misses the entire Salāh and later makes Qadhā of it, there are four scenarios to this:

1. If one misses any Salāh of the days of Tashrīq and makes Qadhā of it within the days of Tashrīq, then he shall recite the Takbīr after the Salāh.

2. If one makes Qadhā of such a Salāh after the days of Tashrīq, then he shall not recite the Takbīr.

3.If one makes Qadhā of such a Salāh in the days of Tashrīq the following year, then too he shall not recite the Takbīr.

4.If one misses a Salāh outside the days of Tashrīq and decides to make Qadhā in the days of Tashrīq, then he shall not recite the Takbīr.

WHEN WILL A HĀJĪ RECITE THE TAKBĪR?

A Hājī shall first recite the Takbīr-e-Tashrīq after Salāh and thereafter recite the Talbiyah. If he recites the Talbiyah first, then he may not recite the Takbīr thereafter.

ON THE WAY TO THE MUSALLĀ (EID GĀH):

It is Sunnah to recite the Takbīr audibly on the way to the Musallā (Eid Gāh) on Eid-ul-Adh'hā. One may recite Takbīr till the commencement of the Eid Salāh. However, it is preferable to stop once the lecture (Bayān) commences and listen attentively to it.

As for Eid-ul-Fitr, it is preferable to recite Takbīr in a soft tone.

NO TAKBĪR AFTER EID SALĀH:

Takbīr is Wājib only after the Fardh Salāhs. It should not be recited after the Eid Salāh as it is a Wājib Salāh. However, if there is a general practice of reciting the Takbīr after Eid Salāh in a certain area, then there is nothing wrong in doing so.

TAKBĪR IN THE KHUTBAH:

It is Sunnah to begin the first Kutbah with nine Takbīrs, the second Khutbah with seven Takbīrs and terminate the second Khutbah with fourteen Takbīrs.

Translation: Allah is the Greatest. Allah is the Greatest. There is no deity worthy of worship but Him. Allah is the Greatest. Allah is the Greatest. And for Allah is all praises.

EXTRA RULINGS PERTAINING TO EID PRAYER:

The prayer of Eid cannot be observed under any circumstance after midday. There is no Qadha (make-up prayer) for an individual who misses the Eid prayer with the Imam, but it is better for him to pray four rak'ats of voluntary prayer individually like Salah ad-Duha (Chasht). If for some reason all the people are unable to observe the Eid prayer on the day of Eid, they may observe the Eid Salah on the next day only for Eid al-Fitr. However, as for the prayer of Eid al-Ad'ha, the congregation can be held up to the third day only .

The time for Eid Salah commences after sunrise. It is Makrooh Tahrimi (highly disliked) to observe any voluntary Salah including Ishraq Salah before the Eid Salah at home or at the Eid Gah .

EXTENDING EID GREETINGS ON EID DAY:

To extend greetings on both the Eids is permissible as long as it is not regarded as necessary . However it is advisable to greet with the following words :

تقبل الله منا ومنكم

Transliteration: Taqabbalallahu minna wa minkum

Translation: May Allah accept from us and you

It is an innovation to handshake and embrace each other after the Eid Salah and Khutbah if one regards it to be necessary.

LAWS OF SADAQATUL FITR

UPON WHOM IS SADAQATUL FITR WAJIB?

Sadaqatul fitr is wajib on the following persons:

1. A person upon whom zakaat is Wajib (i.e. to possess assets of a productive nature equivalent to the value of 612.36g of silver).
2. A person upon whom zakaat is not wajib but he/she has wealth equivalent to the nisaab of zakaat over and above his basic needs.
Note: This is irrespective of whether the wealth is for the purposes of trade or not and irrespective of whether he has had it in his possession for a full year or not. However, if all his belongings are part of his basic needs, Sadaqatul Fitr will not be Wajib, no matter how valuable they are.
3. A minor and a mentally disturbed person who have wealth equivalent to nisaab. The father/guardian should discharge the minor's or mentally disturbed person's Sadaqatul Fitr from their respective wealth. The father/guardian may also discharge it on behalf of them from his own wealth. If the Sadaqatul Fitr has not been discharged, the minor will have to discharge it upon reaching puberty.
4. A person upon whom Sadaqatul Fitr is Wajib is also obliged to discharge it on behalf of his minor children who are not wealthy, children who are mentally disturbed and his slaves.
Note: A husband is not responsible for discharging Sadaqatul Fitr on behalf of his wife or his adult children. However, it is permissible for him to discharge it of his own will on behalf them.

AMOUNT OF SADAQATUL FITR:

One may give any of the following in Sadaqatul Fitr:

- ½ Saa' (1.75kg) of wheat
- 1 Saa' (3.5kg) of barley
- 1 Saa' (3.5kg) of dates
- 1 Saa' (3.5kg) raisins
- Alternatively, one may give the value of the said amount of wheat in cash. It is best to give cash so that the poor may purchase whatever they need with the money.
- It is also permissible to give any groceries or foodstuffs equivalent to the value of wheat mentioned above. For example, one may give rice, etc.

WHEN DOES IT BECOME WAJIB AND WHEN SHOULD IT BE DISCHARGED?

Sadaqatul fitr becomes wajib at the time of fajr on the day of 'Eid ul-fitr. If a person passes away before dawn on 'Eid day, sadaqatul fitr will not be wajib on him nor will it be given from his wealth. Similarly, it will not be Wajib for a child born after dawn on the day of 'Eid. The Sadaqah has to be discharged on or before the day of 'Eid-ul-Fitr. Hence, one may also discharge it in Ramadhān.

THE BEST TIME FOR DISCHARGING IT:

It is best to give the sadaqatul fitr before going to the 'Eid-Gāh. If it has not been discharged as yet, there will be no harm in discharging it after the 'Eid Salaah.

WHOM SHOULD IT BE GIVEN TO?

Sadaqatul Fitr should be given to those who are eligible of receiving Zakaat. Currently, only the poor, needy, debtor, the mujahideen and the needy travellers are eligible of receiving Zakaat and Sadaqatul Fitr funds.

WHAT IF I FAIL TO DISCHARGE MY SADAQATUL FITR?

If a person fails to discharge his sadaqatul fitr on or before the day of 'Eid, he will not be absolved from this obligation. He will have to fulfil it at some other time.

WHAT IF I DID NOT FAST IN RAMADAAN?

Sadaqatul Fitr is equally Wajib on those who fast in Ramadaan and those who do not fast, whether it be due to a Shar'ī excuse or any other reason.

GIVING MULTIPLE SADAQATUL FITR TO ONE PERSON:

It is permissible to give the Sadaqatul of multiple people to one poor person. Similarly, it is also permissible to divide one Sadaqatul Fitr amongst several poor people.



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معجم المصطلحات والألفاظ الفقهية (955/2) [دار الفضيلة]
العید: أصله من عود المسرة ورجوعها

[Al-Bahr ar-Ra`iq Sharh Kanz ad-Daqa`iq, 2: 157; Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 166]

وتجب صلاة العید على كل من تجب عليه صلاة الجمعة
[Al-Hidayah ma`a al-Inayah, p. 456, Dar al-Kutub al-Ilmiyyah, Beirut]
[al-Fatawa al-Alamigiriyah, 1: 150, Maktabah Rashidiyyah]
[Al-Bahr ar-Ra`iq Sharh Kanz ad-Daqa`iq, 2: 157, H. M. Saeed Company]
[al-Durr al-Mukhtar ma`a Radd al-Muhtar, 2: 166, H. M. Saeed Company]
[Fatawa Qadhi Khan, 1: 162]

هو الصحيح من المذهب
[Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.329]
Note: Thus, the Eid prayer is not Wajib on women.

الخطبة فإنها ليست بشرط لها بل هي سنة بعدها
[Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.329]
[Al-Inayah Sharh al-Hidayah, 1:462]

وهي واجبة في الأصح. كما في (الخاتبة) و (الهداية) و (البدائع) و (المحيط) و (المختار) و (الكافي) و (النسفي) وفي (الخلاصة): وهو المختار؛ لأنه صلى الله عليه وسلم
واظب عليها. وسماها في (الجامع): سنة؛ لأن وجوبها ثبت بالسنة. اهـ
[Al-Lubab fi Sharh al-Kitab, 2: 261, Dar al-Basha`ir al-Islamiyyah]

وفي المجتبى الأصح أنها سنة مؤكدة ... حتى لو لم يخطب أصلاً صح وأساء لترك السنة ولو قدمها على الصلاة صحت وأساء ولا تعاد الصلاة
[Al-Bahr ar-Ra`iq Sharh Kanz ad-Daqa`iq, 2: 158, H. M. Saeed Company]
[Al-Fatawa al-Alamigiriyah, 1: 150, Maktabah Rashidiyyah]

Most of the books use the word 'Mustahab', however:

وسمّاه مستحباً لاشتمال السنة على المستحب وعد سائر المستحبات المذكورة هنا في بعض الكتب سنة
[Al-Bahr ar-Ra'iq Sharh Kanz ad-Daqa'iq, 2: 158]

وندب في الفطر ثلاثة عشر شيئاً: أن يأكل وأن يكون المأكول تمرًا ووترًا ويغتسل ويستاك، ويتطيب، ويلبس أحسن ثيابه ويؤدي صدقة الفطر إن وجبت عليه ويظهر الفرح والبشاشة وكثرة الصدقة حسب طاقته والتبكير وهو سرعة الانتباه والابتكار وهو المسارعة إلى المصلى وصلاة الصبح في مسجد حبه ثم يتوجه إلى المصلى ماشياً مكبراً سرا ويقطعه إذا انتهى إلى المصلى في رواية وفي رواية أخرى إذا افتتح الصلاة ويرجع من طريق آخر،
[Nur al-Idhah ma'a Maraqiy al-Falah, p.129-30, Maktabah Imdadiyah, Multan]

ويظهر الفرح بطاعة الله وشكر نعمته ويتختم، ويظهر البشاشة في وجه من يلقاه من المؤمنين وكثرة الصدقة النافلة حسب طاقته زيادة عن عادته والتبكير وهو سرعة الانتباه أول الوقت أو قبله لأداء العبادة بنشاط والابتكار وهو المسارعة إلى المصلى لينال فضيلة الصف الأول
[Maraqiy al-Falah Sharh Nur al-Idhah, p.130; [Al-Fatawa al-Alamgiriyyah, 1: 149]

Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.330

فإن المستحب عندهم أن لا يطعم حتى يرجع من المصلى، لما روي عن النبي صلى الله عليه وسلم فيه
[Sharh Mukhtasar at-Tahawi, 2: 151, Dar al-Basha'ir al-Islamiyyah & Dar as-Siraj]

يؤخر الأكل في الأضحية عن الصلاة حتى يفرغ من الصلاة، وإن لم يضخ في الأصل
[Al-Lubab fi Sharh al-Kitab, 2: 267-8]

في الأضحية يؤخر الأكل عن الصلاة استحباباً فإن قدمه لا يكره في المختار
[Maraqiy al-Falah Sharh Nur al-Idhah, p.132, Maktabah Imdadiyah, Multan]

ويوم الأضحية يؤخر الأكل إلى ما بعد الصلاة، وقيل هذا في حق من يضحي لا في حق غيره والأول أصح
[Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.330]

والثاني صلاة الأضحية وحكمها في الشرائط والتكبيرات مثل صلاة الفطر وهي تفضل على صلاة الفطر بأربعة أشياء أحدها بالقربان والثاني بالتكبيرات في أيام التشريق والثالث بأن يعجل بها والرابع بأن لا يأكل منها حتى يصلي بها
[An-Nutaf fi al-Fatawa, p.67, Dar al-Kutub al-Ilmiyyah]

عن عبد الله بن بريدة عن أبيه قال: كان رسول الله صلى الله عليه وسلم لا يخرج يوم الفطر حتى يطعم، ولا يأكل يوم الأضحية حتى يرجع، فيأكل من أضحيته
[Sunan at-Tirmidhi, 542; Mustadrak al-Hakim, 1:294]

یہ حکم صرف قربانی کرنے والے کے لئے نہیں ہے سب کے لئے ہے مستحب یہ ہے کہ روزہ دار کی طرح رہیں اور عید الاضحی کی نماز کے بعد کھائیں پین اور اگر اپنے گھر قربانی ہے تو اپنی قربانی سے کھائے، بلا عذر نماز سے پہلے کھانا مکروہ ہے کبیری میں ہے
[Fatawa Rahimiyyah, 6: 167, Dar al-Isha'at]

ويستحب أن يكون أول تناولهم من لحوم الأضاحي التي هي ضيافة الله كذا في العيني شرح الهداية
[Al-Fatawa al-Alamgiriyyah, 1: 150, Maktabah Rashidiyyah]

ويُفعل يوم النحر كذلك، إلا أنه إن شاء طعم، وإن شاء لم يطعم
[Sharh Mukhtasar at-Tahawi, 2: 151]

والأصح أنه لا يكره الأكل قبل الصلاة هنا ولا تركه هناك
[Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.330]
[Al-Lubab fi Sharh al-Kitab, 2: 268; Al-Fatawa al-Alamgiriyyah, 1: 149, Maktabah Rashidiyyah]
At most it is Makrooh Tanzihi as stated by [Fatawa Rahimiyyah, 6: 176]

See [Tabyin al-Haqa`iq, 1: 71-2; 1: 17] for a difference of opinion whether the Ghushl is for the day, as according to Hasan, or for the Eid prayer, as according to Abu Yusuf. However a person could adopt the reconciliation between the two views presented below and in [Ma la Budda Minhu] and bath after the sun has risen and before the Eid prayer.

وسيدى عبد الغنى النابلسى هنا بحث نفيس ذكره في شرح هداية ابن العباد. حاصله أنهم صرحوا بأن هذه الاغتسالات الأربعة للنظافة لا للطهارة مع أنه لو تخلل الحدث تزداد النظافة بالوضوء ثانياً، ولئن كانت للطهارة أيضاً فهي حاصلة بالوضوء ثانياً مع بقاء النظافة فالأولى عندي الإجزاء وإن تخلل الحدث؛ لأن مقتضى الأحاديث الواردة في ذلك طلب حصول النظافة فقط. اهـ أقول: ويؤيده طلب التبرك للصلاة، وهو في الساعة الأولى أفضل وهي إلى طلوع الشمس، فربما يعسر مع ذلك بقاء الوضوء إلى وقت الصلاة ولا سيما في أطول الأيام، وإعادة الغسل أعسر - (وما جعل عليكم في الدين من حرج) [الحج: 87]- وربما أداه ذلك إلى أن يصلي حاقناً وهو حرام، ويؤيده أيضاً ما في المعراج: لو اغتسل يوم الخميس أو ليلة الجمعة استن بالسنّة لحصول المقصود وهو قطع الرائحة اهـ.

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 1: 169]

[Tabyeen al-Haqa`iq, 1: 71-2, Dar al-Kutub al-Ilmiyyah Beirut]

This reconciliation is preferred by: [Also Ahsan al-Fatawa, 4: 151, H. M. Saeed Company; Fatawa Mahmoodiyah, 8: 470]

أن يلبس ثوبين جديدين أو غسلين

[An-Nutaf fi al-Fatawa, p.66, Dar al-Kutub al-Ilmiyyah; Fatawa Mahmoodiyah, 8: 475]

وليس أحسن ثيابه كذا في القنينة جديدة كان أو غسلاً كذا في محيط السرخسي

[Al-Fatawa al-Alamgiriyyah, 1: 149, Maktabah Rashidiyyah]

ويستحب أداء صدقة الفطر قبل الصلاة في الفطر

[Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.330]

عن ابن عمر رضي الله عنه: أن رسول الله صلى الله عليه وسلم أمر بركاة الفطر أن تؤدى قبل خروج الناس إلى الصلاة

[Saheeh al-Bukhari, 1438; Saheeh Muslim, 986]

أعدها قبل دخول يوم العيد وهو جائز ثانياً يومه قبل الخروج وهو مستحب ولأن المستحب أن يأكل قبل الخروج إلى المصلى فيقدم الفقير ليأكل قبلها

[Al-Bahr ar-Ra`iq Sharh Kanz ad-Daqa`iq, 2: 158-9]

[These seven have been mentioned by: Al-Lubab fi Sharh sl-Kitab, 2: 262; Sharh Mukhtasar at-Tahawi, 2: 149; Al-Hidayah Sharh al-Inayah, 1: 457; Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.330; Kanz ad-Daqa`iq ma`a al-Bahr al-Ra`iq, 2: 158-9, H. M. Saeed Company]

ويستحب التوجه إلى المصلى ماشياً إن قدر ولا يكره الركوب وكذا في الجمعة

[Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.330; [Al-Fatawa al-Alamgiriyyah, 1: 149, Maktabah Rashidiyyah]

ويستحب الرجوع في طريق غير طريق الذهاب تكثرًا للشهود

[Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.330; An-Nutaf fi al-Fatawa, p.66; Fat`h al-Qadir Sharh al-Hidayah, 1: 71; Tabyin al-Haqa`iq Sharh Kanz ad-Daqa`iq, 1: 225]

(قوله: والتختم) ظاهره ولو لغير أمير وقاض ومفت. وما في كتاب الحظر من قصره على نحو هؤلاء محمول على الدوام ويدل له ما في النهر عن الدراية أن من كان لا يتختم من الصحابة كان يتختم يوم العيد، وهذا أولى مما في القهستاني حيث خصه بذي سلطان.

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 169]

ويظهر الفرع بطاعة الله وشكر نعمته ويتختم

[Maraqiy al-Falah Sharh Nur al-Idhah, p.130; Al-Fatawa al-Alamgiriyyah, 1: 149]

[Ahsan al-Fatawa, 4: 129]

الخروج إلى المصلى وهو الجبابة سنة وإن كان يسعهم الجامع وعليه عامة المشائخ

[Gunya al-Mutamalli ala Sharh Munyat al-Musalli (Halabi Sagir), p.331]
[Al-Fatawa al-Alamgiriyyah, 1: 150, Fat`h al-Qadir Sharh al-Hidayah, 2: 69, Maktabah Rashidiyyah]

ثم خروجه ماشيا إلى الجبانة وهي المصلى العام: أى في الصحراء والخروج إليها وإلى الجبانة لصلاة العيد سنة وأن يسعهم المسجد الجامع هو الصحيح
[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 168; H. M. Saeed Company]
Also see: [I`laa as-Sunan, 8: 112, Idarah al-Qur`an, Karachi]

(جبانة سے) مکانات و آبادی سے باہر ہونا مراد ہے
[Imdad al-Ahkam, 1: 770, Dar al-Uloom Karachi]

Note: Unfortunately it is a neglected Sunnah in some places:

لو صلى العيد في الجامع ولم يتوجه إلى المصلى فقد ترك السنة
[Al-Bahr ar-Ra`iq, 2: 159, H. M. Saeed Company]
[Hashiyat at-Tahtawi ala ad-Durr al-Mukhtar, 1: 352, Dar al-Ma`rifah]
[Fatawa Mahmoodiyah, 8: 413-6, Dar al-Iftaa Jamiah Farooqiyyah]

غاز عیدین کا عیدگاہ میں پڑھنا سنت ہے، بلا وجہ اس سنت کا چھوڑنا برا ہے
[Imdad al-Ahkam, 1: 732, Maktabah Dar al-Uloom Karachi]

بلا عذر اس کا تارک لائق ملامت اور مستحق عتاب ہے اور ترک کرنے کا عادی گنہگار ہوتا ہے
مکروہ تحریمی کے ارتکاب سے آدمی گنہگار ہوتا ہے جس طرح ترک واجب سے گنہگار ہوتا ہے اور سنت مؤکدہ کا بھی حکم ہے
[Fatawa Rahimiyyah, 6: 185]

ولہذا کان الأصح أنه يأثم بترك السنة المؤكدة كالواجب
[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 166]

و یأثم بارتکابه کما یأثم بترك الواجب، ومثله السنة المؤکدة
[Ad-Durr al-Mukhtar ma`a Radd al-Muhtar, 6: 337]

See: [Fatawa Dar al-Uloom Zakariyyah, 2: 570-4, Zamzam Publishers] for the evidences from Hadith and statements of Ulama of Deoband on the Sunnah of observing the Eid prayer in an open field, park or even stadiums.

ويقطع أي التكبير إذا انتهى إلى المصلى في رواية جزم بها في الدراية وفي رواية إذا افتتح الصلاة كذا في الكافي وعليه عمل الناس قال أبو جعفر وبه تأخذ
[Maraqiy al-Falah Sharh Nur al-Idhah, p.130]

ولا يكبر في طريق المصلى عند أبي حنيفة: يعني جهراً، أما سراً فيستحب. (جوهرة) وعندهما يكبر في طريق المصلى جهراً استحباباً، ويقطع إذا انتهى إليه، وفي رواية: إلى الصلاة. (جوهرة). قال في التصحيح: قال الإسيباني في زاد الفقهاء والعلامة في التحفة: الصحيح قول أبي حنيفة، قلت (العلامة قاسم بن قطلوبغا): وهو المعتمد عند النسفي وبرهان الشريعة وصدرها. اهـ.
[Al-Lubab fi Sharh al-Kitab, 2: 262-3]

ويتوجه إلى المصلى وهو يكبر جهراً ويصلي الأضحية ركعتين صلاة عيد الفطر
[Al-Lubab fi Sharh al-Kitab, 2: 268; Al-Inayah Sharh al-Hidayah, 1:458]

ويستحب التكبير جهراً في طريق المصلى يوم الأضحية اتفاقاً
[Gunya al-Mutamalli ala Sharh Munyat al-Musalli (Halabi Sagir), p.330]
[Maraqiy al-Falah Sharh Nur al-Idhah, p.132]
[Al-Fatawa al-Alamgiriyyah, 1: 150]
[Tabyin al-Haqa`iq, 1: 224, Maktabah Imdadiyah]

[Al-Quran, 2: 185]

[Al-Qur'an, 22: 28]

وشرائط صلاة الفطر أربع: أمر السلطان والوقت والقوم والمصر والخطبة ليست من شرائطها
[An-Nutaf fi al-Fatawa, p. 65]

يصلّي الإمام بالناس ركعتين بلا أذان ولا إقامة
[Gunya al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.330]
[Al-Asl li as-Shaybani, 1: 319]

لا يسن (أي الأذان) لغريها كعيد ...
[Ad-Durr al-Mukhtar ma'a Radd al-Muhtar, 1: 385]
[al-Fatawa al-Alamigiriyah, 1: 53, Maktabah Rashidiyah]

وروي عن عمر بن الخطاب ، وعبد الله بن مسعود ، وأبي موسى الأشعري، وحذيفة ، وابن الزبير رضي الله عنهم خمسا في الأولى وأربعاً في الثانية، يوالي بين القراءتين،
ويعتد بتكبير الركوع والافتتاح من تكبيرات العيد فكانت تكبيرات الزوائد عندهم ستاً: ثلاثاً في الأولى وثلاثاً في الأخيرة
[Sharh Mukhtasar at-Tahawi, 2: 153-4]
[Fat'h al-Qadir Sharh al-Hidayah, 2: 74]
[Fatawa Qadhi Khan, 1: 163; Fatawa Mahmoodiyah, 8: 438]

ويرفع يديه في تكبيرات العيدين
[al-Hidayah ma'a al-Inayah, 1:461]

ولا فرق بين الفطر والأضحى فيهما، كما لا يختلفان في سائر أركانها ومسنونهما
[Sharh Mukhtasar at-Tahawi, 2: 158]

وإذا حلت الصلاة بارتفاع الشمس دخل وقتها إلى الزوال
[al-Hidayah ma'a al-Inayah, 1:458]
[Al-Lubab fi Sharh al-Kitab, 2: 263-4]
[Al-Fatawa al-Alamigiriyah, 1: 150; Fatawa Qadhi Khan, 1: 163]

ويستحب تعجيل الصلاة في الأضحى وتأخيرها في الفطر
[Gunya al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.332; Al-Fatawa al-Alamigiriyah, 1: 150; Fatawa Qadhi Khan, 1: 163]

[The whole method can be read at: Al-Lubab fi Sharh al-Kitab, 2: 264-5; Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.330, Mara'iq al-Falah Sharh Nur al-Idhah, p.130-1; Al-Fatawa al-Alamigiriyah, 1: 150; Al-Asl li as-Shaybani, 1: 319; Fatawa Mahmoodiyah, 8: 444, Dar al-Iftaa Jamiah Farooqiyah]

وكيفية صلاتها أي العيدين أن ينوي عند أداء كل منهما صلاة العيد بقلبه ويقول بلسانه أصلي صلاة العيد لله تعالى اماماً والمقتدي ينوي المتابعة ايضاً
[Maraqi al-Falah Sharh Nur al-Idhah, p.130]

ولا بدّ من التعيين عند النية ... (الفرض) ... (وواجب) أنه وتر أو نذر
[Ad-Durr al-mukhtar ma'a Radd al-Muhtar, 1: 418-9, H. M. Saeed Company]

والنذر والوتر وصلاة العيدين وركعتي الطواف، فلا بدّ من التعيين لإسقاط الواجب عنه
[Al-Bahr ar-Ra'iq, 1: 491, Maktabah Rashidiyah]
[Bada'i as-Sana'i, 1: 330, Maktabah Rashidiyah]

[Gunnyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiyy Sagir), p.330]

وليس بين التكبيرات ذكر مسنون. وروي عن أبي حنيفة أنه يسكت بين كل تكبيرتين بقدر ثلاث تنسيحات ... وقال في المبسوط: ليس هذا القدر بلازم، بل يختلف ذلك بكثره الزحام وقتله

[Al-Inayah Sharh al-Hidayah, 1:461]

ويرفع يديه عند كل تكبيرة منهن ويرسلهما في أثنائهن ثم يضعهما بعد الثالثة ويتعوذ ويقرأ الفاتحة وسورة

[Gunnyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiyy Sagir), p.330]

ثم يقرأ الإمام الفاتحة ثم يقرأ سورة وندب أن تكون سورة سبح اسم ربك الأعلى تماماً ثم يركع الإمام ويتبعه القوم فإذا قام للثانية ابتدأ بالسلمة ثم بالفاتحة ثم بالسورة لبوأي بين القراءتين وهو الأفضل عندنا وندب أن تكون سورة: هل أتاك حديث الغاشية رواه الإمام أبو حنيفة يرفعه إلى النبي صلى الله عليه وسلم: "كان يقرأ في العيدين ويوم الجمعة بـ سبح اسم ربك الأعلى و هل أتاك حديث الغاشية

[Maraqī al-Falah Sharh Nur al-Idhah, p.130-1]

[Fat`h al-Qadir Sharh al-Hidayah, 2: 75]

[Tabyin al-Haqa`iq Sharh Kanz ad-Daqa`iq, 1: 226]

[Al-Asl li as-Shaybani, 1: 321]

[Gunnyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiyy Saghir), p.331]

at' zuwwa' al-shaytan min: ot srefe بالله من الشيطان الرجيم

T hayimsa' ot: بسم الله الرحمن الرحيم

ولو سبق بركة يقرأ ثم يكبر لتلا يتوالى التكبير (الدر المختار)

(قوله لتلا يتوالى التكبير أي لأنه إذا كبر قبل القراءة وقد كبر مع الإمام بعد القراءة لزم توالى التكبيرات في الركعتين قال في البحر ولم يقل به أحد من الصحابة ولو بدأ بالقراءة يصير محله موافقاً لقول علي - رضي الله عنه - فكان أولى كذا في المحيط وهو مخصص لقولهم: إن المسبوق يقضي أول صلاته في حق الأذكار

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2:174]

[Al-Bahr ar-Ra`iq, 2: 282]

[Fatawa Mahmoodiyah, 8: 378]

[Al-Asl li as-Shaybani, 1: 322]

All these cases can be found in:

ولو أدرك المؤتمر (الإمام في القيام) بعدما كبر (كبر) في الحال برأي نفسه لأنه مسبوق، ولو سبق بركة يقرأ ثم يكبر لتلا يتوالى التكبير (قلو لم يكبر حتى ركع الإمام قبل أن يكبر) المؤتمر (لا يكبر) في القيام (و) لكن (يركع ويكبر في الركوع) على الصحيح لأن الركوع حكم القيام فالإتيان بالواجب أولى من المسنون

[Ad-Durr al-Mukhtar ma`a Radd al-Muhtar, 2: 173-4]

(قوله في القيام) أي الذي قبل الركوع، أما لو أدركه ركاعاً فإن غلب ظنه إدراكه في الركوع كبر قائماً برأي نفسه ثم ركع، وإلا ركع وكبر في ركوعه خلافاً لأبي يوسف ولا يرفع يديه لأن الوضع على الركبتين سنة في محله، والرفع لا في محله وإن رفع الإمام رأسه سقط عنه ما بقي من التكبير لتلا تفوته المتابعة ولو أدركه في قيام الركوع لا يقضيها فيه لأنه يقضي الركعة مع تكبيراتها فتح وبدائع

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 173-4]

Also for all cases see: [Al-Fatawa al-Alamgiriyyah, 1: 151-2; Ahsan al-Fatawa, 4: 153]

[Fatawa Mahmoodiyah, 8: 459]

For the ruling of it being correct to make Dua after the Eid prayer and before the Kutbah, see:

[Imdad al-Ahkam 1: 740-3, Maktabah Dar al-Uloom Karachi]

[Imdad al-Fatawa, 1: 474]

[Fatawa Mahmoodiyah, 8: 464]

[And two evidences from Hadith are provided by Fatawa Dar al-Uloom Zakariyah, 2: 579]

[Ahsan al-Fatawa, 4: 125-6, H. M. Saeed Company] explains:

1. The irrelevancy of deducing the permissibility from the traditions;

2. That

نماز عید کے بعد متصل بلا فصل خطبہ ہے علاوہ ازیں خطبہ بھی دعاء ہی ہے

3. and Five innovations in the Dua after Eid prayer, due to which

وجوہ مذکورہ کی بناء پر اس رسمی دعاء سے احتراز لازم ہے

Conclusion: However, see [Fatawa Rahimiyyah, 6: 68-70, Dar al-Isha'at, Karachi] for a beautiful analysis comparing both views of permissibility and impermissibility concluding that Dua after Eid prayer is permissible but must neither be emphasised upon nor assumed to be Sunnah

(یخطب بعدها خطبتین) وهما سنة

[Ad-Durr al-Mukhtar ma'a Radd al-Muhtar, 2: 175]

ثم يخطب بعد الصلاة خطبتين

[al-Hidayah ma'a al-Inayah, p.461]

ثم يخطب بعد الصلاة خطبتين يبدأ فيهما بالتكبير

[Gunnyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiyy Sagir), p.330; [Maraqiy al-Falah Sharh Nur al-Idhah, p.131]

ويستحب أن يستفتح الخطبة الأولى بتسعة تكبيرات متوالية والثانية بسبع

[Al-Lubab fi Sharh al-Kitab, 2: 266; Al-Bahr Ra'iq, 2: 162, ad-Durr al-Mukhtar ma'a Radd al-Muhtar, 2: 175; Al-Fatawa al-Alamgiriyyah, 1: 150]

قال عبد الله بن مسعود هو السنة

[Maraqiy al-Falah Sharh Nur al-Idhah, p.131]

ويستحب أن يستفتح الأولى بتسعة تكبيرات ترى أي متتابعات والثانية بسبع هو السنة و أن يكبر قبل نزوله من المنبر أربع عشرة

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 175]

Also see: [I'laa as-Sunan, 8: 131, Idarah al-Qur'an, Karachi]

پہلے خطبہ کی ابتداء میں نو بار اور دوسرے کی ابتدا میں سات بار اور بالکل آخر میں چودہ بار مسلسل اللہ اکبر کہنا مستحب ہے ، عام خطیب اس سے غافل ہیں

This is a neglected desired practice as voiced by: Ahsan al-Fatawa, 4: 137-8; Imdad al-Ahkam, 1: 753]

Also: The people will proclaim the Takbirs and extend salutations on Prophet Muhammad (peace be upon him) along with the Imam. However this should be done in the mind and must not be uttered by the tongue.

ويكبر القوم معه ويصلون على النبي صلى الله عليه وسلم في أنفسهم امتثالاً للأمر وسنة الإنصات

[Maraqiy al-Falah Sharh Nur al-Idhah, p.131]

[Al-Fatawa al-Alamgiriyyah, 1: 151]

[Tabyin al-Haq'iq, 1: 226]

(وكل ما حرم في الصلاة حرم فيها) أي في الخطبة خلاصة وغيرها فيحرم أكل وشرب وكلام ولو تسبيحاً أو رد سلام أو أمراً بمعروف بل يجب عليه أن يستمع ويستحب (بلا فرق بين قريب وبعيد) في الأصح محيط ولا يرد تحذير من خيف هلاكه لأنه يجب لحق آدمي، وهو محتاج إليه والإنصات لحق الله - تعالى، ومنه على المسامحة وكان أبو يوسف ينظر في كتابه ويصححه والأصح أنه لا بأس بأن يشر برأسه أو يده عند رؤية منكر والصواب أنه يصلي على النبي - صلى الله عليه وسلم - عند سماع اسمه في نفسه، ولا يجب تشميت ولا رد سلام به يفتى وكذا يجب الاستماع لسائر الخطب كخطبة نكاح وخطبة عيد وختم على المعتمد.

[Ad-Durr al-Mukhtar ma'a Radd al-Muhtar, 159; H. M. Saeed Company]

ويعلم الناس في الفطر أحكام صدقة الفطر، وفي الأضحي أحكام الأضحية وتكبير التشريق

[Gunnyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiyy Sagir), p.330]

[Al-Lubab fi Sharh al-Kitab, 2: 265 & 268]
[Al-Fatawa al-Alamgiriyyah, 1: 150]

لسان العرب (775/7)

وكبر: قال: الله أكبر. والتكبير: التعظيم

المحيط البرهاني في الفقه النعماني (705 /2)

ولأن التشريق حقيقته تقديده للحم: لأنه تفعيل من شرق تشريقاً إذا قطع وأظهر للشمس سمي تقديده اللحم تشريقاً: لأن في ذلك تقطيعه وإظهاره للشمس

بدائع الصنائع في ترتيب الشرائع (81 /2)

وَالْمُرَادُ مِنَ التَّشْرِيقِ هُوَ رَفْعُ الصَّوْتِ بِالتَّكْبِيرِ هَكَذَا قَالَ النَّظَرُ بِنُ شَمَلٍ وَكَانَ مِنْ أَرْبَابِ اللَّغَةِ فَيَجِبُ تَصْدِيقُهُ، وَلَئِنْ تَصَدَّقَ فِي اللَّغَةِ هُوَ الْإِطْلَاقُ، وَالتَّشْرِيقُ هُوَ الظُّهُورُ يُقَالُ: شَرِقَ الشَّمْسُ إِذَا طَلَعَتْ وَظَهَرَتْ سُمِّيَ مَوْضِعَ طُلُوعِهَا وَظُهُورِهَا مَشْرِقًا لِهَذَا، وَالتَّكْبِيرُ نَفْسُهُ إِطْلَاقُ يَكْبَرُ إِلَهُ هُوَ وَهُوَ إِطْلَاقُ مَا هُوَ مِنْ شِعَارِ الْإِسْلَامِ فَكَانَ تَشْرِيقًا

البنية شرح الهداية (183 /3)

والتشريق مصدر من شرق اللحم إذا بسطه في الشمس ليجف، وسميت بذلك أيام التشريق، لأن لحم الأضاحي كانت تشرق فيها بمنى،

الأصل المعروف بالمبسوط للشيباني (523 /1)

قلت فكيف التكبير قال إذا سلم الإمام قال الله أكبر الله أكبر لا إله إلا الله والله أكبر الله أكبر ولله الحمد بلغنا ذلك عن علي بن أبي طالب وعبد الله بن مسعود

بدائع الصنائع في ترتيب الشرائع (21 /2)

وَأَمَّا الَّذِي هُوَ فِي حُرْمَةِ الصَّلَاةِ بَعْدَ الْخُرُوجِ مِنْهَا، فَالتَّكْبِيرُ فِي أَيَّامِ التَّشْرِيقِ فِيهِ يَقَعُ فِي مَوَاضِعَ، فِي تَفْسِيرِهِ، وَفِي وَجُوبِهِ، وَفِي وَقْتِهِ، وَفِي مَحَلِّ آدَائِهِ، وَفِيمَنْ يَجِبُ عَلَيْهِ، وَفِي أَنَّهُ هَلْ يَفْعَلُ بَعْدَ الْفَوَاتِ فِي الصَّلَاةِ الَّتِي دَخَلَتْ فِي حَدِّ الْقَضَاءِ؟ .
(أما) الْأَوَّلُ فَقَدْ اخْتَلَفَتْ الرُّوَايَاتُ عَنِ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - فِي تَفْسِيرِ التَّكْبِيرِ، رَوَى اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ لَا إِلَهَ إِلَّا اللَّهُ، وَلِلَّهِ أَكْبَرُ اللَّهُ أَكْبَرُ وَلِلَّهِ الْحَمْدُ وَهُوَ قَوْلُ عَلِيٍّ وَابْنِ مَسْعُودٍ - رَضِيَ اللَّهُ عَنْهُمَا -، وَكَانَ ابْنُ عَمَرَ يَقُولُ: اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ وَأَجَلُ، اللَّهُ أَكْبَرُ وَلِلَّهِ الْحَمْدُ، وَبِهِ أَخَذَ الشَّافِعِيُّ.
وَكَانَ ابْنُ عَبَّاسٍ يَقُولُ: اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ لَا إِلَهَ إِلَّا اللَّهُ الْحَيُّ الْقَيُّومُ يُخَيِّبُ وَيُخَيِّثُ وَهُوَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ، وَإِنَّمَا أَخَذَنَا يَقُولُ عَلِيٌّ وَابْنُ مَسْعُودٍ - رَضِيَ اللَّهُ عَنْهُمَا -: لِأَنَّهُ الْمَشْهُورُ وَالْمُتَوَارِكُ مِنَ الْأَمَةِ؛ وَلَأَنَّهُ أَجْمَعُ لِإِسْتِمَالِهِ عَلَى التَّكْبِيرِ وَالتَّهْلِيلِ وَالتَّحْمِيدِ فَكَانَ أَوَّلُ.

مصنف ابن أبي شيبة (591 /4)

حَدَّثَنَا أَبُو الْأَحْوَسِ، عَنْ أَبِي إِسْحَاقَ، عَنِ الْأَسْوَدِ، قَالَ: كَانَ عَبْدُ اللَّهِ، يَكْبِّرُ مِنْ صَلَاةِ الْفَجْرِ يَوْمَ عَرَفَةَ، إِلَى صَلَاةِ الْعَصْرِ مِنَ الشُّحْرِ يَقُولُ: «اللَّهُ أَكْبَرُ، اللَّهُ أَكْبَرُ، اللَّهُ أَكْبَرُ، لَا إِلَهَ إِلَّا اللَّهُ، وَلِلَّهِ أَكْبَرُ، اللَّهُ أَكْبَرُ، وَلِلَّهِ الْحَمْدُ»

قال الشيخ محمد عوامة: وقد اتفق النسق على أن لفظ التكبير في أوله ثلاث مرات كما أثبت وعلق عليه شيخنا الأعظمي بقوله: أراه من سهو الناسخ وهو كذلك والله أعلم. وقد نقل الزبلي في نصب الراية 322:2 هذا الأثر على المصنف سنداً و متناً وفيه التكبير مرتين ثم أكده في ص 422 وكذلك جاء عند العيني في البنية 3: 151

وابن الهمام في فتح القدير 94:2

و رأيت كذلك من وجه أخى عند الطبراني (8359) عن ابن مسعود.

تحفة الفقهاء (682 /1)

فَقُولُوا لَهُ وَاجِبٌ وَذَكَرَ هُمَا أَنَّهُ سَمِعَهُ قَسْرَهَا بِالْوَاجِبِ فَإِنَّهُ قَالَ تَكْبِيرُ أَيَّامِ التَّشْرِيقِ سَنَةً مَاضِيَةً نَقَلَهَا أَهْلُ الْعِلْمِ وَأَجْمَعُوا عَلَى الْعَمَلِ بِهَا وَلَكِنْ إِطْلَاقُ اسْمِ السَّنَةِ جَائِزٌ عَلَى الْوَاجِبِ فَإِنَّهَا عِبَادَةٌ عَنِ الطَّرِيقَةِ الْمَرْضِيَّةِ

بدائع الصنائع في ترتيب الشرائع (21 /2)

(وَأَمَّا) تَبَيَّنَ وَجُوبُهُ فَالصَّحِيحُ أَنَّهُ وَاجِبٌ، وَقَدْ سَأَهُ الْكَرْخِيُّ سُنَّةٌ ثُمَّ قَسَرَهُ بِالْوَاجِبِ فَقَالَ: تَكْبِيرُ التَّشْرِيقِ سُنَّةٌ مَاضِيَةٌ نَقَلَهَا أَهْلُ الْعِلْمِ وَأَجْمَعُوا عَلَى الْعَمَلِ بِهَا، وَإِطْلَاقُ اسْمِ السَّنَةِ عَلَى الْوَاجِبِ جَائِزٌ؛ لِأَنَّ السَّنَةَ عِبَادَةٌ عَنِ الطَّرِيقَةِ الْمَرْضِيَّةِ أَوْ السَّيَرَةِ الْحَسَنَةِ، وَكُلُّ وَاجِبٍ هَذِهِ صِفَتُهُ

بدائع الصنائع في ترتيب الشرائع (51 /2)

وَأَمَّا مَحَلُّ آدَائِهِ، فَدُرُّ الصَّلَاةِ، وَإِذَا جَاءَ، وَفُورُهَا مِنْ غَيْرِ أَنْ يَتَخَلَّلَ مَا يَقْطَعُ حُرْمَةَ الصَّلَاةِ حَتَّى لَوْ قَهَقَهُ أَوْ أَخَذَتْ مُتَعَمِّدًا أَوْ سَاهَتَا أَوْ خَرَجَ مِنَ الْمَسْجِدِ أَوْ جَاوَزَ الصُّلُوفَ فِي الصَّخْرَاءِ لَا يَكْبِرُ؛ لِأَنَّ التَّكْبِيرَ مِنْ خَصَائِصِ الصَّلَاةِ حَيْثُ لَا يُؤَيُّ بِهِ إِلَّا عَقِبَ الصَّلَاةِ فَيَرَاغَى لِإِتْيَانِهِ حُرْمَةُ الصَّلَاةِ، وَهَذِهِ الْعَوَارِضُ تَقْطَعُ حُرْمَةَ الصَّلَاةِ فَيَقْطَعُ التَّكْبِيرَ.

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(قوله): وتجب تكبير الشَّريق نُقْل في الصَّحاح وغيره أنَّ الشَّريق يُقَدِّم اللَّحْمَ وبه سَمِعْتُ الْإِمَامَ الثَّلَاثَةَ بَعْدَ يَوْمِ النَّحْرِ. وَنَقَلَ الْخَلِيلُ بْنُ أَحْمَدَ وَالنُّزْرِيُّ شَمْلًا عَنْ أَهْلِ اللُّغَةِ أَنَّهُ التَّكْبِيرُ فَكَانَ مُشْتَرَكًا بَيْنَهُمَا وَهُمَا هُنَا الثَّانِي، وَالْإِضَافَةُ فِيهِ بَيِّنَةٌ أَنَّ التَّكْبِيرَ الَّذِي هُوَ الشَّريقُ. وَبِهِ انْدَفَعَ مَا قِيلَ: إِنَّ الْإِضَافَةَ عَلَى قَوْلِهِمَا لِأَنَّهُ لَا تَكْبِيرَ فِي أَيَّامِ الشَّريقِ عِنْدَهُ وَتَمَامُهُ فِي الْأَحْكَامِ لِلشَّيْخِ إِسْمَاعِيلَ وَابْنِ الْبَنِي (قوله في الأصَح) وَقِيلَ سَمِعْتُ وَصَحَّحَ أَيْضًا لَكِنْ فِي الْفَتْحِ أَنَّ الْأَكْثَرَ عَلَى الْوُجُوبِ وَخَرَّرَ فِي الْبَحْرِ أَنَّهُ لَا خِلَافَ لِأَنَّ السُّنَّةَ الْمُؤَكَّدَةَ وَالْوَاجِبَ مُتَسَاوِيَانِ رُتَبَةً فِي اسْتِحْقَاقِ الْإِلْمِ بِالْأَثَرِ.

البنية شرح الهداية (3/ 283)

م: (ويبدأ) ش: أي المصلي. م: (بتكبير الشَّريق بعد صلاة الفجر من يوم عرفة ويختم) ش: التكبير. م: (عقب العصر) ش: أي صلاة العصر. م: (من يوم النحر عند أبي حنيفة - رَجَمَهُ اللَّهُ -) ش: وهو قول عبد الله بن مسعود وعلقمة والأسود والنخعي - رَضِيَ اللَّهُ عَنْهُمْ -.

م: (وقالا) ش: أي أبو يوسف ومحمد رحمهما الله. م: (يختم عقب صلاة العصر من آخر أيام الشَّريق) ش: وهو قول عمر بن الخطاب وعلي بن أبي طالب وعبد الله بن عباس - رَضِيَ اللَّهُ عَنْهُمْ - وبه قال سفيان الثوري وسفيان بن عيينة وأبو ثور وأحمد والشافعي - رَجَمَهُمُ اللَّهُ - في قول. وفي "التحرير" ذكر عثمان - رَضِيَ اللَّهُ عَنْهُ - معهم. وفي "المفيد" وأبا بكر - رَضِيَ اللَّهُ عَنْهُ - وعليه الفتوى، ذكره في "الكامل" و"التحرير".

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وقالا بوجوب فورٍ كُلِّ فَرَضٍ مُطْلَقًا، وَلَوْ مُتَّفَقًا أَوْ مُسَافِرًا أَوْ امْرَأَةً لِأَنَّهُ تَجِبُ لِلْمَكْتُوبَةِ (إلى) غُضِرَ الْيَوْمُ الْخَامِسُ (آخر أَيَّامِ الشَّريقِ وَعَلَيْهِ الْإِغْتِنَادُ) وَالْعَمَلُ وَالْفَتْوَى فِي عَامَّةِ الْأَمْصَارِ وَكَافَّةِ الْأَغْصَارِ

(قوله) فورٍ كُلِّ فَرَضٍ بِأَنَّ يَأْتِي بِهِ بِلَا فَضْلٍ يَمْتَنِعُ الْبِنَاءُ كَمَا مَرَّ ط (قوله) لِأَنَّهُ تَجِبُ لِلْمَكْتُوبَةِ فَجِبَّ عَلَى كُلِّ مَنْ تَجِبَ عَلَيْهِ الصَّلَاةُ الْمَكْتُوبَةُ بَحْرُ (قوله): وَعَلَيْهِ الْإِغْتِنَادُ (إِنْج) هَذَا بِنَاءٌ عَلَى أَنَّهُ إِذَا اخْتَلَفَ الْإِمَامُ وَصَاحِبُهُ فَالْعِبَرَةُ لِقُوَّةِ الدَّلِيلِ، وَهُوَ الْأَصَحُّ كَمَا فِي آخِرِ الْحَاوِي الْقُذْبِيُّ أَوْ عَلَى أَنَّ قَوْلَهُمَا فِي كُلِّ مَسْأَلَةٍ مَرْبُوبٌ عَنْهُ أَيْضًا، وَإِلَّا فَكَيْفَ يُقْنَى بِقَوْلِ غَيْرِ صَاحِبِ الْمَذْهَبِ. وَبِهِ انْدَفَعَ مَا فِي الْفَتْحِ مِنْ تَرْجِيحِ قَوْلِهِ هُنَا وَرَدَّ فَتَوَى الْمَشَايِخُ بِقَوْلِهِمَا بَحْرُ. مَطْلَبُ كَلِمَةٍ لَا بَأْسَ قَدْ شُغِّلَ فِي الْمُنْدُوبِ

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وقالا بوجوب فورٍ كُلِّ فَرَضٍ مُطْلَقًا، وَلَوْ مُتَّفَقًا أَوْ مُسَافِرًا أَوْ امْرَأَةً لِأَنَّهُ تَجِبُ لِلْمَكْتُوبَةِ (إلى) غُضِرَ الْيَوْمُ الْخَامِسُ (آخر أَيَّامِ الشَّريقِ وَعَلَيْهِ الْإِغْتِنَادُ) وَالْعَمَلُ وَالْفَتْوَى فِي عَامَّةِ الْأَمْصَارِ وَكَافَّةِ الْأَغْصَارِ

(قوله) فورٍ كُلِّ فَرَضٍ بِأَنَّ يَأْتِي بِهِ بِلَا فَضْلٍ يَمْتَنِعُ الْبِنَاءُ كَمَا مَرَّ ط (قوله) لِأَنَّهُ تَجِبُ لِلْمَكْتُوبَةِ فَجِبَّ عَلَى كُلِّ مَنْ تَجِبَ عَلَيْهِ الصَّلَاةُ الْمَكْتُوبَةُ بَحْرُ (قوله): وَعَلَيْهِ الْإِغْتِنَادُ (إِنْج) هَذَا بِنَاءٌ عَلَى أَنَّهُ إِذَا اخْتَلَفَ الْإِمَامُ وَصَاحِبُهُ فَالْعِبَرَةُ لِقُوَّةِ الدَّلِيلِ، وَهُوَ الْأَصَحُّ كَمَا فِي آخِرِ الْحَاوِي الْقُذْبِيُّ أَوْ عَلَى أَنَّ قَوْلَهُمَا فِي كُلِّ مَسْأَلَةٍ مَرْبُوبٌ عَنْهُ أَيْضًا، وَإِلَّا فَكَيْفَ يُقْنَى بِقَوْلِ غَيْرِ صَاحِبِ الْمَذْهَبِ. وَبِهِ انْدَفَعَ مَا فِي الْفَتْحِ مِنْ تَرْجِيحِ قَوْلِهِ هُنَا وَرَدَّ فَتَوَى الْمَشَايِخُ بِقَوْلِهِمَا بَحْرُ. مَطْلَبُ كَلِمَةٍ لَا بَأْسَ قَدْ شُغِّلَ فِي الْمُنْدُوبِ

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لكن المرأة تخافت

(قوله) تخافت، لِأَنَّ صَوْتَهَا غَوْرَةً كَمَا فِي الْكَافِي وَالتَّبْيِينِ

تحفة الفقهاء (1/ 982)

ثم إذا نسي الإِمامَ ولم يكر بركل فليقلع من جملة أفعال الصَّلَاةِ حَتَّى يَكُونَ الْإِمَامُ فِيهِ أَصْلًا

البنية شرح الهداية (2/ 573)

وتسعة أشياء إذا لم يفعلها الإمام يفعلها المقتدي إذا لم يرفع يديه عند الافتتاح يرفعهما وركع ولم يكر المقتدي ولم يسبح في الركوع والسجود يسبح المقتدي ولم يقل سمع الله لمن حمده يقولها المقتدي ولم يكر عند الانحطاط يكر المقتدي ولم يقرأ التَّشَهُدَ يتشهد المقتدي، ولم يسلم يسلم المقتدي، ونسي الإمام تكبيرة الشَّريق يكر المقتدي والله تعالى أعلم بالصدق والصواب.

العناية شرح الهداية (1/ 593)

(فَإِنْ لَمْ يَسْجُدِ الْإِمَامُ لَمْ يَسْجُدِ الْمُؤْتَمِّمُ؛ لِأَنَّهُ يَصِيرُ مَخَالِفًا لِإِمَامِهِ، وَمَا تَرَمَّزَ الْإِدَاءُ إِلَّا مُتَابِعًا) وَبَيْنَ الْمَخَالَفَةِ وَالْمُتَابِعَةِ مُنَافَاةٌ، فَإِذَا تَحَقَّقَ أَحَدُ الْمُتَابِعِينَ نَقَضَ الْآخَرَ. وَأَعْرَضَ عَلَى التَّجْلِيلِ الْمَذْكُورِ فِي الْكِتَابِ بِمَخَالَفَاتٍ يَجُوزُ وَفُوعُهَا مِنَ الْمُؤْتَمِّمِ، كَمَا إِذَا لَمْ يَرْفَعْ الْإِمَامُ يَدَهُ عِنْدَ الْإِفْتِتَاحِ فَإِنَّ الْقَوْمَ تَرَفَّعُوا، وَإِذَا لَمْ يَنْتَهِ الْإِمَامُ بِعُنَى الْمَأْمُومِ، وَإِذَا تَرَكَ الْإِمَامُ تَكْبِيرَةَ الرَّكْعَةِ وَتَسْبِيحَتَهُ وَتَكْبِيرَةَ الْإِنْحِطَاطِ وَقِرَاءَةَ التَّشَهُدِ وَالتَّسْلِيمِ وَتَكْبِيرَ الشَّريقِ فَإِنَّ الْمَأْمُومَ يَفْعَلُ ذَلِكَ كُلَّهُ.

تحفة الفقهاء (1/ 982)

وأما محل أداء التَّكْبِيرِ ففي دير الصَّلَاةِ وإدراها من غير أَنْ يَتَخَلَّلَ مَا يقطع حُرْمَةَ الصَّلَاةِ حَتَّى إِلَهُ لَوْ قَامَ وَخَرَجَ مِنَ الْمَسْجِدِ أَوْ تَكَلَّمَ فَإِلَهُ لَا يَكْرُ وَكَلَّمَ قَامَ وَلَمْ يَخْرُجْ مِنَ الْمَسْجِدِ فَإِلَهُ يَكْرُ

بدائع الصنائع في ترتيب الشرائع (2/ 51)

وأما محل أدائه، فُدُبُرُ الصَّلَاةِ، وَإِدْرَاهَا، وَقُوعُهَا مِنْ غَيْرِ أَنْ يَتَخَلَّلَ مَا يقطع حُرْمَةَ الصَّلَاةِ حَتَّى لَوْ قَامَ وَأَخَذَتْ مُتَعَمِّدًا أَوْ تَكَلَّمَ عَامِدًا أَوْ سَاجِدًا أَوْ خَرَجَ مِنَ الْمَسْجِدِ أَوْ جَاوَزَ الصُّلُوفَ فِي الْخُشْرَاءِ لَا يَكْبَرُ؛ لِأَنَّ التَّكْبِيرَ مِنْ خُصَائِصِ الصَّلَاةِ حَيْثُ لَا يُؤْتَى بِهِ إِلَّا عَقِبَ الصَّلَاةِ فَيَرَاغَى لِإِتْبَائِهِ حُرْمَةَ الصَّلَاةِ، وَهَذِهِ الْعَوَارِضُ تَقْطَعُ حُرْمَةَ الصَّلَاةِ

فَيَقْطَعُ التَّكْبِيرَ.

الأصل المعروف بالمبسوط للشيباني (623 /1)

قلت أُرَأِيتُ الإمام إذا كَانَ عَلَيْهِ سجدتا السُّهُو أكبر قبل أن يسجدهما قَالَ لَا وَلَكِنَّهُ يَسْجُدُهُمَا وَيَسْلَمُ ثُمَّ يَكْبِرُ
قلت أُرَأِيتُ رجلاً سبقه الإمام بِرُكْعَةٍ فِي أَيَّامِ الشَّرِيعِ أَكْبَرَ مَعَ الْإِمَامِ حِينَ يَسْلَمُ أَوْ يَقُومُ فَيَقْضِي قَالَ بَلْ يَقُومُ فَيَقْضِي فَإِذَا سَلِمَ كَبَّرَ قُلْتُ لَمْ قَالَ لِأَنَّ التَّكْبِيرَ لَيْسَ مِنْ
الصَّلَاةِ لَا تَرَى أَوْ نَوَّارَ رَجُلًا دَخَلَ مَعَهُمُ فِي التَّكْبِيرِ يُرِيدُ الصَّلَاةَ لَمْ يَجِزْ ذَلِكَ قُلْتُ وَهَذَا لَا يَشْبَهُ سَجْدَتِي السُّهُو قَالَ لَا أَلَا تَرَى أَنَّ مَنْ دَخَلَ مَعَ الْإِمَامِ فِي سَجْدَتِي السُّهُو
فَقَدْ دَخَلَ مَعَهُ فِي الصَّلَاةِ لِأَنَّ سَجْدَتِي السُّهُو مِنَ الصَّلَاةِ وَالتَّكْبِيرُ لَيْسَ مِنَ الصَّلَاةِ

الأصل المعروف بالمبسوط للشيباني (632 /1)

لَتَأْرَأَيْتُ رجلاً أَدْرَكَ مَعَ الْإِمَامِ رُكْعَةً فِي أَيَّامِ الشَّرِيعِ مِنْ صَلَاتِهِ وَقَدْ سَبَقَهُ الْإِمَامُ بِثَلَاثِ رُكْعَاتٍ وَعَلَى الْإِمَامِ سُهُوٌ أَلَيْسَ يَسْجُدُهُمَا هَذَا الرَّجُلُ مَعَ الْإِمَامِ قَبْلَ أَنْ يَقْضِيَ
مَا سَبَقَهُ بِهِ الْإِمَامُ قَالَ نَعَمْ قُلْتُ فَكَيْفَ يَضَعُ إِذَا كَبَّرَ الْإِمَامُ أَكْبَرَ أَوْ يَقُومُ فَيَقْضِي قَالَ بَلْ يَقُومُ فَيَقْضِي مَا سَبَقَهُ بِهِ الْإِمَامُ فَإِذَا فَرَغَ وَسَلِمَ كَبَّرَ بَعْدَ ذَلِكَ قُلْتُ وَكَذَلِكَ
التَّائِيَةُ قَالَ نَعَمْ

بدائع الصانعة في ترتيب الشرائع (91 /2)

وَأَمَّا بَيَانُ حُكْمِ التَّكْبِيرِ فِيمَا دَخَلَ مِنَ الصَّلَوَاتِ فِي حَدِّ الْقَضَاءِ فَنَقُولُ: لَا يَخْلُو إِذَا إِنِ قَاتَنَهُ الصَّلَاةُ فِي غَيْرِ أَيَّامِ الشَّرِيعِ فَقَضَاهَا فِي أَيَّامِ الشَّرِيعِ، أَوْ قَاتَنَهُ فِي هَذِهِ الْيَوْمِ
فَقَضَاهَا فِي غَيْرِ هَذِهِ الْيَوْمِ، أَوْ قَاتَنَهُ فِي هَذِهِ الْيَوْمِ فَقَضَاهَا فِي غَيْرِ الْيَوْمِ فَفَقَضَاهَا فِي أَيَّامِ الشَّرِيعِ لَا يَكْبُرُ عَقِبَهَا؛ لِأَنَّ
الْقَضَاءَ عَلَى حَسَبِ الْإِدَاءِ وَقَدْ قَاتَنَهُ بِمَا يَكْبُرُ فَيَقْضِيهَا كَذَلِكَ، وَإِنْ قَاتَنَهُ فِي هَذِهِ الْيَوْمِ فَقَضَاهَا فِي غَيْرِ هَذِهِ الْيَوْمِ لَا يَكْبُرُ عَقِبَهَا أَيْضًا وَإِنْ كَانَ الْقَضَاءُ عَلَى حَسَبِ الْإِدَاءِ
وَقَدْ قَاتَنَهُ مَعَ التَّكْبِيرِ: لِأَنَّ رَفْعَ الصَّوْتِ بِالتَّكْبِيرِ بِدَعَاءٍ فِي الْأَصْلِ إِلَّا حَيْثُ وَرَدَ الشَّرْعُ وَالشَّرْعُ مَا وَرَدَ بِهِ فِي وَقْتِ الْقَضَاءِ قَبْلِي بِدَعَاءٍ.
فَإِنْ قَاتَنَهُ فِي هَذِهِ الْيَوْمِ وَقَضَاهَا فِي الْعَامِ الْقَابِلِ فِي هَذِهِ الْيَوْمِ لَا يَكْبُرُ أَيْضًا وَرَوَى عَنْ أَبِي يُوسُفَ أَنَّهُ يَكْبُرُ وَالصَّحِيحُ ظَاهِرُ الرِّوَايَةِ لِمَا بَيَّنَّا أَنَّ رَفْعَ الصَّوْتِ بِالتَّكْبِيرِ بِدَعَاءٍ
إِلَّا فِي مَوْرِدِ الشَّرْعِ وَالشَّرْعُ وَرَدَ بِجَعْلِ هَذَا الْوَقْتِ وَقَدْ رَفَعَ الصَّوْتِ بِالتَّكْبِيرِ عَقِبَ صَلَاةٍ هِيَ مِنْ صَلَوَاتِ هَذِهِ الْيَوْمِ وَلَمْ يَرِدْ الشَّرْعُ بِجَعْلِهِ وَقَدْ لَغِيَ ذَلِكَ قَبْلِي بِدَعَاءٍ
كَأَحْيَانَةٍ قَاتَتْ عَنْ وَقْفِهَا أَنَّهُ لَا يُمْكِنُ التَّقَرُّبُ بِإِزَاقَةِ دِمَائِهَا فِي الْعَامِ الْقَابِلِ وَإِنْ عَادَ الْوَقْتُ، وَكَذَا رَمَى الْجِمَارَ لِمَا ذَكَرْنَا فَكَذَا هَذَا وَإِنْ قَاتَنَهُ فِي هَذِهِ الْيَوْمِ وَقَضَاهَا فِي
هَذِهِ الْيَوْمِ مِنْ هَذِهِ السَّنَةِ يَكْبُرُ: لِأَنَّ التَّكْبِيرَ سُنَّةُ الصَّلَاةِ الْفَائِتَةِ وَقَدْ قَدَّرَ عَلَى الْقَضَاءِ يَكُونُ الْوَقْتُ وَقَدْ لَغِيَ التَّكْبِيرَاتِ الصَّلَوَاتِ الْمَشْرُوعَاتِ فِيهَا.

الأصل المعروف بالمبسوط للشيباني (623 /1)

لَتَأْرَأَيْتُ الْمُحَرَّمَ يَوْمَ عَرَفَةَ إِذَا صَلَّى وَسَلَّمَ أَبْدَأَ بِالتَّكْبِيرِ أَوْ بِالتَّائِيَةِ قَالَ بَلْ يَبْدَأُ بِالتَّكْبِيرِ ثُمَّ لَيْتِي قُلْتُ لَمْ قَالَ لِأَنَّ التَّكْبِيرَ أَوْجِبُهُمَا

غنية المحتمل (333)

ولو اجتمع سجود السهو والتكبير والتلبية بدأ بالسهم ثم بالتكبير ثم بالتلبية ولو قدم التلبية سقط التكبير والسهو

مراقي الفلاح شرح نور الإيضاح (ص: 102)

"ويقطع" أي التكبير "إذا انتهى إلى المصلى في رواية" جزم بها في الدراية "وفي رواية إذا افتتح الصلاة" كذا في الكافي وعليه عمل الناس قال أبو جعفر وبه أخذ

اللباب في شرح الكتاب (511 /1)

(ولا يكره في طريق المصلى عند أبي حنيفة) يعني جهراً، أما سراً فيستحب. جوهرة (وعندهما يكره) في طريق المصلى جهراً استحباباً، ويقطع إذا انتهى إليه، وفي رواية: إلى الصلاة. جوهرة. قال في التصحيح: قال الإِسْبَاجَانِي فِي زَادِ الْفَقَاهَةِ وَالْعَلَمَةِ فِي التَّحْفَةِ: الصَّحِيحُ قَوْلُ أَبِي حَنِيفَةَ، قُلْتُ: وَهُوَ الْمُعْتَمَدُ عِنْدَ النَّسَفِيِّ وَبِرْهَانِ الشَّرِيعَةِ وَصَدَرَهَا

المحيط البرهاني في الفقه النعماني (905 /2)

ولا تكبير في صلاة العبد لأنها تطوع

الدر المختار وحاشية ابن عابدين (رد المحتار) (81 /2)

وَلَا يَأْسُ بِهِ عَقِبَ الْعِيدِ لِأَنَّ الْمُسْلِمِينَ تَوَارَثُوهُ فَوَجِبَ اتِّبَاعُهُمْ، وَعَلَيْهِ التَّبَلُّغُ
(قَوْلُهُ وَلَا يَأْسُ إِلَخَ) كَلِمَةً لَا يَأْسُ قَدْ شَتَّعَلَمَ فِي الْمَذْهَبِ كَمَا فِي الْبَحْرِ مِنَ الْجَنَائِزِ وَالْجِهَادِ وَمِنْهُ هَذَا الْمَوْضِعُ لِقَوْلِهِ فَوَجِبَ اتِّبَاعُهُمْ (قَوْلُهُ فَوَجِبَ) الظَّاهِرُ أَنَّ الْمُرَادَ
بِالْوُجُوبِ الثَّبُوتَ لَا الْوُجُوبَ الْمُطْلَقَ عَلَيْهِ، وَفِي الْبَحْرِ عَنْ الْمُجْتَبَى: وَالتَّبَلُّغُ يُكْرَهُ عَقِبَ صَلَاةِ الْعِيدِ لِأَنَّهَا تُؤَدَّى بِجَمَاعَةٍ فَأَشْبَهَتْ الْجُمُعَةَ إِيَّاهُ وَهُوَ يُبِيدُ الْوُجُوبَ
الْمُطْلَقَ عَلَيْهِ ط

الدر المختار وحاشية ابن عابدين (رد المحتار) (571 /2)

(وَيُسْتَحَبُّ أَنْ يَنْشَفِخَ الْأَوَّلَى بِتِسْعَةِ تَكْبِيرَاتٍ تَتَرَى) أَيُّ مُتَتَابِعَاتٍ (وَالثَّانِيَةَ بِسِتِّينَ) هُوَ السُّنَّةُ (وَ) أَنَّ (يَكْبُرُ قَبْلَ تَرْوِيلِهِ مِنْ الْمِثْرِ أَرْبَعَةَ عَشْرَةَ)

[Al-Lubab fi Sharh al-Kitab, 2: 270]

[Al-Asl li as-Shaybani, 1: 325]

وقوله وهذا هو المأثور عن الخليل - صلى الله عليه وسلم قيل أصل ذلك ما روي ((أن جبريل لما جاء بالقرآن خاف العجلة على إبراهيم - عليهما السلام - فقال الله أكبر الله أكبر، فلما رآه إبراهيم قال لا إله إلا الله والله أكبر، فلما علم إسماعيل بالفداء قال الله أكبر والله الحمد)) ، فبقي في الآخرين إما سنة أو واجبا على ما يذكر. وروي ابن عمر أن رسول الله - صلى الله عليه وسلم - قال ((أفضل ما قلت وقالت الأنبياء قبلي يوم عرفة: الله أكبر الله أكبر لا إله إلا الله والله أكبر الله أكبر والله الحمد))

[Al-Inayah Sharh al-Hidayah, 1: 464]

Hence, if the people receive late-news of it being Eid on the actual day which was assumed not to be Eid and the time has already passed midday, they will not observe the Eid prayer on that day though it is Eid but the next day.

ولا تصلين بعد الزوال على كل حال
[Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.331 and also see the footnotes on Dar an-nashr al-Ilmiyyah edition from Sharh Kabir]

ومن فاتته صلاة العيد مع الإمام ولو بالإفساد: لم يقضها وحده؛ لأنها لم تعرف قربة إلا بشرائط، لا تتم بالمنفرد (هداية)
[Al-Lubab fi Sharh al-Kitab, 2: 266; Sharh Mukhtasar at-Tahawi, 2: 161; Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Sagir), p.330; Maraqiy al-Falah Sharh Nur al-Idhah, p.131]

فإن عجز، صلى أربعين كالضحي أي استحبابا كما في القهستاني وليس هذا قضاء ؛ لأنه ليس على كفيتهما
[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 176, H. M. Saeed Company]
[Al-Bahr ar-Ra`iq, 2: 284, Maktabah Rashidiyah]
[Fatawa Mahmoodiyah, 8: 377, Dar al-Iftaa Jamiah Farooqiyah]

ومن خرج إلى الجبانة ولم يدرك الإمام في شيء من الصلاة إن شاء انصرف إلى بيته وإن شاء صلى ولم ينصرف والأفضل أن يصلي أربعاً فتكون له صلاة الضحى لما روي عن ابن مسعود ... وروي في ذلك عن رسول الله صلى الله عليه وسلم وعدا جميلا وثوابا جزيلا
[Fatawa Qadhi Khan, 1: 163; Al-Asl li as-Shaybani, 1: 320]

فإن حدث عذر من الأعذار المارة منع الناس من الصلاة في أول يوم الأضحي صلاها من الغد وبعد الغد، ولا يصلها بعد ذلك لأنها مؤقتة بوقت الأضحية فتتقيد بأيامها، لكنه مسيء بالتأخير بغير عذر، وإلا فلا؛ فالعذر هنا لنفي الكراهة، وفي الفطر للصحة.
[Al-Lubab fi Sharh al-Kitab, 2: 268]

[Gunyat al-Mutamalli ala Sharh Munyat al-Musalli, p.330-1]

[Maraqiy al-Falah Sharh Nur al-Idhah, p.132]

[Al-Fatawa al-Alamgiriyyah, 1: 152]

[Fatawa Qadhi Khan, 1: 163]

[Tabyin al-Haqa`iq Sharh Kanz ad-Daqa`iq, 1: 226]

قوله (فانه مكروه) اي تحريما على الظاهر

[Tahtawi ala ad-Durr al-Mukhtar, 1: 562, In Fatawa Rahimiyyah, 6: 168, Dar al-Isha`at]

وهو التنفل قبلها فهو مكروه وأطلقه فشملا ما إذا كان في المصلى أو في البيت ولا خلاف فيما إذا كان في المصلى واختلفا فيما إذا تنفل في البيت فعامتهم على الكراهة وهو الأصح كما في غاية البيان

[Al-Bahr ar Ra`iq Sharh Kanz ad-Daqa`iq, 2: 160; Al-Asl li as-Shaybani, 1: 328]

See: [Imdad al-Fatawa, 1: 529] - if a person wishes to read the Chast prayer, he may do so after return- ing from the Eid prayer

النساء إن أردن أن يصلين صلاة الضحى يصلين بعد ما صلى الإمام كذا في الخلاصة

[Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabiy Saghir), p.332]

والتهنئة وإنما قال كذلك لأنه لم يحفظ فيها شيء عن أبي حنيفة وأصحابه، وذكر في القنية أنه لم ينقل عن أصحابنا كراهة وعن مالك أنه كرهها، وعن الأوزاعي أنها بدعة، وقال المحقق ابن أمير حاج: بل الأضحية جائزة مستحبة في الجملة ثم ساق آثارا بأسانيد صحيحة عن الصحابة في فعل ذلك ثم قال: والمتعامل في البلاد الشامية

والمصرية عيد مبارك عليك ونحوه وقال يمكن أن يلحق بذلك في المشروعية والاستحباب لما بينهما من التلازم فإن من قبلت طاعته في زمان كان ذلك الزمان عليه مباركاً على أنه قد ورد الدعاء بالبركة في أمور شتى فيؤخذ منه استحباب الدعاء بها هنا أيضاً. اهـ

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 169]

For a detailed discussion also see: [Fatawa Dar al-Uloom Zakariyah, 2: 582-5]

(عيد کے دن ایک دوسرے کو مبارک باد دینا) جائز ہے - تقبل الله منا ومنكم اور آپ کو عيد مبارك ہو وغيره الفاظ کہے [Fatawa Rahimiyyah, 6: 172, Dar al-Isha'at]

والتهنئة بتقبل الله منا ومنكم لا تنكر

[Ad-Durr al-Mukhtar ma'a Radd al-Muhtar, 2: 169; Al-Bahr ar-Ra'iq, 2: 158, H. M. Saeed Company]

ولا بأس بقول الرجل لغيره يوم العيد تقبل الله منا ومنك

[Gunya al-Mutamalli ala Sharh Munyat al-Musalli (Halabiyy Sagir), p.332]

The narrations can be found in: [As-Sunan al-Kubra li al-Bayhaqi, 3: 319; Majma' az-Zawa'id, 2: 206]

تركه المصافحة بعد أداء الصلاة بكل حال، لأن الصحابة - رضي الله تعالى عنهم - ما صافحوا بعد أداء الصلاة، ولأنها من سنن الروافض اهـ ثم نقل عن ابن حجر عن الشافعية أنها بدعة مكروهة لا أصل لها في الشرع، وأنه ينه فاعلها أولاً ويعزر ثانياً ثم قال: وقال ابن الحاج من المالكية في المدخل إنها من البدع، وموضع المصافحة في الشرع، إنما هو عند لقاء المسلم لأخيه لا في أدبار الصلوات فحيث وضعها الشرع يضعها فنيهي عن ذلك ويزجر فاعله لما أتى به من خلاف السنة اهـ

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 6: 381; 2: 235]

[Fatawa Mahmoodiyah, 8: 464, Dar al-Iftaa Jamiah Farooqiyah]

Note: However, see [Fatawa Dar al-Uloom Zakariyah, 2: 590-3] which provides thirteen narrations on the permissibility of embracing each other due to not the prayer but expressing love and happiness. Thus it could be permissible to embrace each other for expressing love and happiness on the occasion of Eid while not assuming it to be Sunnah or part of Deen.

مراقي الفلاح شرح نور الإيضاح مع حاشية الطحطاوي (ص: 327) [دار الكتب العلمية]

تجب على حر مسلم مكلف مالك لئساب أو قيمته وإن لم يحل عليه الحول عند طلوع فجر يوم الفطر ولم يكن للتجارة فارغ عن الدين وحاجته الأصلية وحوائج عياله والمعتبر فيها الكفاية لا التقدير وهي مسكنه وأثاثه وثيابه وفرسه وسلاحه وعبيده للخدمة فيخرجها عن نفسه وأولاده الصغار الفقراء وإن كانوا أغنياء يخرجها من مالهم ولا تجب على الجد في ظاهر الرواية واختير أن الجد كالأب عند فقده أو فقره وعن مماليكه

الدر المختار وحاشية ابن عابدين (رد المحتار) (2/ 953) [ابن عابدين]

(على كل) حر (مسلم) ولو صغيراً مجنوناً، حتى لو لم يخرجها وليهما وجب الأداء بعد البلوغ

قال ابن عابدين: وأما العقل والبلوغ فليسا من شرائط الوجوب في قول أبي حنيفة وأبي يوسف، حتى تجب على الصبي والمجنون إذا كان لهما مال ويخرجها الولي من مالهما وقال محمد وزفر لا تجب فيضمنها الأب والوصي لو أديها من مالهما اهـ وكما تجب فطرتهما تجب فطرة رفيقتهما من مالهما كما في الهندية والبحر عن الظهيرية (قوله: حتى لو لم يخرجها وليهما) أي من مالهما.

ففي البدائع أن الصبي الغني إذا لم يخرج وليه عنه فعلى أصل أبي حنيفة وأبي يوسف أنه يلزمه الأداء: لأنه يقدر عليه بعد البلوغ. اهـ

حاشية ابن عابدين (رد المحتار) (2/ 963) [ابن عابدين]

قلت: فلو كانا فقيرين لم تجب عليهما بل على من يمولهما كما يأتي. والظاهر أنه لو لم يؤدها عنهما من ماله لا يلزمهما الأداء بعد البلوغ والإفاقة لعدم الوجوب عليهما (قوله: بعد البلوغ) أي بعد الإفاقة في المجنون ح.

الدر المختار وحاشية ابن عابدين (رد المحتار) (2/ 163) [ابن عابدين]

(عن نفسه) متعلق بيجب وإن لم يصم لعذر (وطفله الفقير) والكبير المجنون،

قال ابن عابدين: (قوله: والكبير المجنون) أي الفقير أما الغني ففي ماله عندهما كما مر وفي التارخانية عن المحيط أن المعتوه والمجنون بمنزلة الصغير سواء كان الجنون أصلياً بأن بلغ مجنوناً أو عارضاً هو الظاهر من المذهب. اهـ

الدر المختار وحاشية ابن عابدين (رد المحتار) (2/ 163) [ابن عابدين]

(لا عن زوجته) وولده الكبير العاقل، ولو أدى عنهما بلا إذن أجزأ استحساناً للإذن عادة أي لو في عياله وإلا فلا قهستاني عن المحيط فليحفظ

الدر المختار وحاشية ابن عابدين (رد المحتار) (2/ 463) [إيج إيم سعيد]
(نصف صاع) فاعل يجب (من بر أو دقيقه أو سويقه أو زبيب) وجعله كالتمر، وهو رواية عن الإمام وصححه بهنسي وغيره. وفي الحقائق والشربلية عن البرهان:
وبه يفتى (أو صاع تمر أو شعير) ولو ردينا

الدر المختار وحاشية ابن عابدين (رد المحتار) (2/ 663) [إيج إيم سعيد]
(ودفع القيمة) أي الدراهم (أفضل من دفع العين على المذهب) المفتى به جوهرة وبصر عن الظهيرية وهذا في السعة، أما في الشدة فدفع العين أفضل كما لا يخفى

الدر المختار وحاشية ابن عابدين (رد المحتار) (2/ 463) [إيج إيم سعيد]
وما لم ينص عليه كذرة وخبز يعتبر فيه القيمة

مراقي الفلاح شرح نور الإيضاح مع حاشية الطحطاوي (ص: 427) [دار الكتب العلمية]
ووقت الوجوب عند طلوع فجر يوم الفطر فمن مات أو افتقر قبله أو أسلم أو اغتنى أو ولد بعده لا تلزمه. ويستحب إخراجها قبل الخروج إلى المصلى وصح لو قدم
أو أخر والتأخير مكروه ويدفع كل شخص فطرته لفقر واحد.

الدر المختار وحاشية ابن عابدين (رد المحتار) (2/ 953) [إيج إيم سعيد]
غير أن المستحب قبل الخروج إلى المصلى لقوله - عليه الصلاة والسلام - «أغنوهم عن المسألة في هذا اليوم» بدائع

مراقي الفلاح شرح نور الإيضاح مع حاشية الطحطاوي (ص: 427) [دار الكتب العلمية]
ويستحب إخراجها قبل الخروج إلى المصلى وصح لو قدم أو أخر والتأخير مكروه ويدفع كل شخص فطرته لفقر واحد.

الدر المختار وحاشية ابن عابدين (رد المحتار) (2/ 863) [إيج إيم سعيد]
(وصدقة الفطر كالزكاة في المصارف) وفي كل حال (إلا في) جواز (الدفع إلى الذمي) وعدم سقوطها بهلاك المال وقد مر

الدر المختار وحاشية ابن عابدين (رد المحتار) (2/ 163) [إيج إيم سعيد]
(عن نفسه) متعلق بيجب وإن لم يصم لعذر

قال ابن عابدين: (قوله: وإن لم يصم لعذر) الظاهر أنه قيد به بناء على ما هو حال المسلم من عدم تركه الصوم إلا بعدز كما تقدم نظيره في باب قضاء الفوائت، حيث
لم يقل المتروكات ظنا بالمسلم خيرا، فحينئذ تجب الفطرة وإن أفطر عمدا لوجود السبب وهو الرأس الذي يمونه ويلى عليه ولو لم يصم كالطفل الصغير والعبد الكافر.
ثم رأيت في البدائع ما يشعر بذلك حيث قال: وكذا وجود الصوم في شهر رمضان ليس بشرط لوجوب الفطرة حتى إن من أفطر لكبر أو مرض أو سفر يلزمه صدقة
الفطر؛ لأن الأمر بأدائها مطلق عن هذا الشرط اهـ فافهم

مراقي الفلاح شرح نور الإيضاح مع حاشية الطحطاوي (ص: 427) [دار الكتب العلمية]
واختلف في جواز تفريق فطرة واحدة على أكثر من فقير ويجوز دفع ما على جماعة لواحد على الصحيح والله الموفق للصواب.
قال الطحطاوي: "واختلف في جواز تفريق فطرة واحدة على أكثر من فقير" وعلى الجواز الأكثر وبه جزم في الولوالجية والخانية والبدائع والمحيط وتبعهم الزيلعي في
الظهار من غير ذكر خلاف وصححه في البرهان فكان هو المذهب والأمر في حيث أغنوهم للندب فيفيد الأولية در.

LAWS RELATING TO THE DECEASED

BATHING * SALAT AL-JANAZAH * BURIAL * TA`ZIAH
* INHERITANCE & ESTATES * ISAL AL-THAWAB * WILLS
& TESTAMENTS

BY: HANIF PATEL - SECOND YEAR IFTAA STUDENT

BEFORE DEATH:

The person on his deathbed should be turned to his right side facing the Qiblah . It is also permissible to lie him on his back and to raise his head slightly to face the Qiblah .The words of Shahadah should be proclaimed near him for him to hear and thus indirectly prompt him to proclaim it too. This is called Talqin. However, he should not be instructed and compelled to recite it.It is Mustahab (desirable) for the deceased`s close relatives, friends and neighbours to be present to advise him on his last will, assist him in encountering this critical moment and read Surah Yasin and Surah Ra`d onto him .

AFTER DEATH:

It is Fardh Kifayah to bathe, to enshroud, to observe the Janazah Salah of, and bury the deceased .When he passes away, his eyes should be shut and jaws should be closed using a band fastened from the lower chin to the top of the head .The one who has shared the most companionship with the deceased is most worthy of undertaking this task and he should say while closing the eyes :

بسم الله ، وعلى ملة رسول الله، اللهم يسّر عليه أمره وسهّل عليه ما بعده، وأسعده بلفائك، واجْعَلْ ما خرج إليه خيراً مما خرج عنه

Then the deceased should be covered with a sheet of cloth and fragrance should be placed near him .A piece of iron or anything reasonably heavy should be put on his stomach so that it does not inflate .The hands of the deceased should be placed to his sides while his fingers and joints should be loosened .It is Makrooh Tanzihi to recite the Qur`an by the deceased from his death until he is bathed . It is Mustahab (highly desirable) to hasten in settling his debts and release him from his liabilities .It is desirable to inform the deceased`s neighbours, relatives, friends and the people of the locality of his demise so that they can supplicate for him and extend reward for him .The process of bathing and burying the deceased should

be hastened. Upon the demise of her husband, the woman should immediately sit in iddah. A woman in her iddah must remain in the marriage home for the complete duration of her iddah, without leaving the house, except for dire necessity . The waiting period of iddah is for four months and ten days (according to the lunar calendar). If the husband passed during the middle of the month, then the iddah will be 130 days. Furthermore, if a woman is pregnant, her iddah will be till she gives birth to the baby irrespective of it being more or less than 4 months and 10 days. The Qur`an should not be recited upon the deceased but at a distance from him or only after he has been bathed .

WHO SHOULD BATHE THE DECEASED?

It is unanimously agreed that it is Fardh Kifayah upon the living people to bathe the deceased. It is desirable that the washer should be one who is the closest of the people to the deceased or a person of piety. The woman is allowed to bathe and shroud her deceased husband; but the husband is not allowed to bathe his deceased wife . The husband must not touch or bathe the deceased wife; however, he is permitted to see her. If there is no one from the same gender to bathe the deceased, Tayammum will be performed on the deceased using a cloth . A young child may be bathed either by a male or a female .

It is permissible to kiss the deceased

It is the responsibility of the man to arrange the shroud and the burial of his wife .

METHOD OF BATHING:

It is better for the washer[s] to make the intention of bathing the deceased. When the people decide to bathe the deceased, they should put him on a broad bench or a bier. The deceased may be layed in any direction suitable, even though the feet may be facing the qiblah. The bench or platform should be perfumed odd number of times

by rotating the incense around the bier. The clothes of the deceased should be removed and a cloth should be placed to cover the deceased's area from the knees to the navel while the rest of the body could be kept exposed. Perform Wudhu for the deceased without rinsing his mouth or nose. However, the washer may use a thin cloth to clean and enter water in the mouth and the nose and wipe the teeth and lips. Water should be poured over the deceased.

The water should be boiled with leaves of lotus tree or saltwort. However, if one does not possess any of them, even simply pure warm water is sufficient. The head and beard should be washed with khitmi (marsh mallow plant) or any soap available.

Then he should be made to lie down on the left side and be washed with water and leaves of lotus tree until it is seen that the water has reached that part which is adjacent to the bench.

The deceased should then be made to lie down on the right side and should be washed with water and leaves of lotus tree until it is seen that the water has reached that part which is adjacent to the bench.

Then the deceased should be made to sit and lean against the washer and the stomach of the deceased should be wiped gently.

Any impurity emerging from the deceased should be washed but there is no need to repeat the Ghusl or Wudhu or to replace afterwards the shroud.

The deceased should then be turned to his left side again and washed to complete Sunnah of completing virtuous acts in threes.

The water should be poured over the deceased thrice each time his side is turned. The body of the deceased should then be dried and wiped with a cloth. Hanut or any other fragrance should be placed on his head and beard and camphor on the forehead, the nose, the hands, the knees and the feet.

If after birth, the child shows a sign of life, including making noise, yawning, crying etc. it should be named, given a bath, shrouded and prayed upon . However, a miscarried foetus and a child who does not show signs of life after birth, should be washed, wrapped in any cloth and buried without the funeral Salah being observed over it . It is desirable for the washer to take a bath himself after bathing the deceased .

SHROUDING THE DECEASED:

The shrouds may be any of any type or colour usually worn by the deceased but preferably of nice quality and white cotton . The shroud of both, men and women , should be perfumed with incense an odd number of times before the deceased is wrapped in them. It is preferable to burn incense at three times: when the soul is leaving the body, at the time of bathing the deceased, and when the deceased is shrouded .The hair and the beard of the deceased should not be combed or braided and the nails should not be cut.

It is Sunnah that a man is shrouded in three clothes :

Izar – a loin cloth extending from the head to the feet like the Lifafah

Qamis – an upper garment extending from the shoulders to the feet

Lifafah – (chador) a complete wrapper extending from the head to the feet It is also permissible to restrict the man`s shroud to only the Izar and Lifafah. The deceased male should be put in the shrouds.

Firstly, the Lifafah should be spread out and thereafter the Izar should be unfolded on top of it. The deceased should be wrapped in a Qamis without sleeves and put onto the Izar to be folded into it first from his left and then from his right and then similarly into the Lifafah .The additional wrapper should be wrapped around the deceased beginning with the left side, putting the shroud over him, then the right side. The shroud may be fastened with a knot .

It is Sunnah that a woman should be shrouded in five cloths:

Izar

Qamis

Khimar – a scarf which should be on top of the Qamis under the Lifafah

A cloth with which her bosom is tied

Lifafah

It is also permissible to restrict the woman's shroud to only Izar, Khimar and Lifafah. The deceased female should be put in the shrouds. Firstly, the Lifafah should be spread out, then the cloth to place on the bosom, then the Izar on top of it. The deceased should be wrapped in a Qamis and put onto the Izar to be folded into it, then the cloth and then into the Lifafah.

The two hair plaits of a woman should be placed on her chest on top of the Qamis. Then the woman should be made to cover the head and face wear the Khimar below the Lifafah and on top of the Qamis. Then she should be wrapped in an Izar. The piece of cloth should then be fastened on top of that behind the chest on the bosom and then the Lifafah should be fastened.

The child close to maturity will be shrouded with the same clothes as an adult. If the child is younger, it is better to enshroud him also with the full kafn, although it is permissible to enshroud the young boy in a single cloth and the young girl in two clothes. Once the deceased has been wrapped in the shrouds, it is compulsory upon the people to pray over the deceased.

THE JANAZAH SALAH:

The funeral salāh is Fardh Kifāyah. The most worthy of people to pray over him is the ruler if he is present; if not, then the Imam of his locality then the Walī. If the deceased is buried and the people have not observed the funeral Salah over him yet, the Salah could be performed over his grave for few days.

The Salah should not be observed over a deceased in a Masjid

The Imam leading the funeral Salah should stand in line of the chest of the deceased. The Imam and followers should intend to observe the salāh of janāzah for the sake of Allah and as a supplication for the deceased. The specification of the deceased in the intention is not required. The intention could be pronounced from the tongue or simply made in the heart. It is not necessary for the Imam to make an intention for the followers.

The Imam will proclaim the Takbir (Allahu Akbar) four times. The observance of four takbirs and the salām is compulsory for the validity of the salāh al-janāzah while the recitation of prescribed portions between the takbirs is sunnah. The hands should be raised only upon the first Takbir. After the first Takbir, the Imam and followers should read the Thana (praise of Allah). After the second Takbir, they should extend salutations (Salat and Salam) on Prophet Muhammad (peace be upon him) with the same words as usually read in salāh. After the third Takbir, they should supplicate for themselves, for the deceased and for all the Muslims. The following supplication may be read :

اللَّهُمَّ اغْفِرْ لِحَيِّنَا وَمَمَيِّنَا وَصَغِيرِنَا وَكَبِيرِنَا , وَذَكَرِنَا وَأُنْثَانَا , وَشَاهِدِنَا وَغَائِبِنَا , اللَّهُمَّ مَنْ أَحْيَيْتَهُ مِنَّا فَأَحْيِهِ عَلَى الْإِسْلَامِ , وَمَنْ تَوَفَّيْتَهُ مِنَّا فَتَوَفَّهُ عَلَى الْإِيمَانِ , اللَّهُمَّ لَا تَحْرِمْنَا أَجْرَهُ وَلَا تُضِلَّنَا بَعْدَهُ

Transliteration: Allāhummaghfir lihayyinaa wa mayyitinaa wa sagheerinaa wa kabeerinaa wa zakarinaa wa unthaanaa wa shaahidinaa wa ghaa`ibinaa allaahuma man ahyaytahu minnaa fa ah`iyhi alal

islam wa man tawaffaytahu minnaa fatawaffahu alal eemaan alla-
humma laa tahrimnaa ajrahu wa laa tudhillanaa ba`dahu

Translation: O Allah forgive our living and our dead, our young and our old, our menfolk and our womenfolk, those who are present and those who are absent. O Allah, whomsoever you give life from among us give him life on Islam, and whomsoever you take away from us take him away on faith. O Allah, do not forbid us their reward and do not send us astray after them.

After the fourth Takbir, they should make salām both ways. As for the position of the hands, there are three views expressed: (a) to untie and loosen the hands after the fourth takbīr; (b) to untie the right hand when turning right for salām and the left hand when turning left for salām; and (c) to loosen the hands after both salāms . The last option has been preferred .

ADDITIONAL RULES OF JANAZAH SALAH:

It is makrūh tahrīmī (impermissible) to observe the Janāzah (funeral) salāh in those timings in which salāh is generally impermissible, i.e at the time of sunrise, istiḥā (zenith) and sunset, if the janāzah was presented before such timings. However, if the janāza is presented at that time and prayed upon at the same time, then it is permissible to observe the salāh at that time. However, if the deceased is buried without salāh being observed upon him, then it should be read by his grave as long as it is within three days of burying him.

If there are multiple janāzāh, the janāzah of the deceased menfolk should be kept the closest to the imam, and then the boys, and then the women and then the girls . It is more virtuous to observe separate salāh for each; however, even if observed collectively, one salāh of janāzah will suffice for all those deceased . The supplication for the children should be read after the supplication for the adults.

If an individual misses any takbīr, then he should join the Imām in the takbīr he is in and compensate for the missed takbīrs in order after the Imām completes the salāh. The best of rows in the salāh of janāzah are the last rows. It is mustahab to have an odd number of rows. The salāh of janāzah is a supplication in itself for the deceased. There is no basis for raising the hands and supplicating after the janāzah salāh and thus to do such is impermissible.

There is no salāh janāzah upon a miscarried baby who has not lived for any moment out of the womb. It is impermissible to observe the salāh of janāzah in the masjid without any genuine reason. However, it is permissible to observe the salāh within the courtyard of the masjid, open yard or the graveyard as long as graves are not directly in front.

CARRYING THE DECEASED TO THE GRAVE:

The people should then carry the deceased on his bier, holding its four ends and walking with it swiftly; neither running nor slowly. It is Sunnah for the deceased to be carried by four people at a time. These four people should carry the deceased for forty steps. Whilst carrying the deceased, the end in which the head lies, should be led first and not the feet. Those carrying and following the Janazah should remain silent. It is Makrooh to raise the voice in Zikr or in reciting the Qur'an while carrying the deceased.

BURIAL:

The grave should be dug 3 or, preferably, 6 feet in depthness and the height of the human in length and an incision should be made in the direction of the Qiblah wherein the deceased can rest easily. A board or a piece of wood should be placed above which should not touch the deceased but act as a roof for the deceased. Hence the soil returned in the grave will not reach the deceased but the upper surface of the board. The soil which is taken out in creating the

incision should be used to put on top of the grave to raise the level of the grave up to two spans . The deceased should be entered from the Qiblah side. It is also permissible when the earth is soft and wet to bury the deceased in a coffin .

The husband is allowed to touch the Janazah of his wife and place her into her grave . A veil should be drawn around the area of the grave when the female deceased is being buried. This will ensure no non-Mahram is able to see any part of the deceased female . Once the deceased is placed in the incision, is it Mustahab for the one placing the deceased in the grave to say:

باسم الله وعلى ملة رسول الله

Transliteration: Bismillahi wa alaa millati rasoolillah

The deceased should be made to lie on his right side facing the Qiblah and the knots on his shroud should be untied . Unbaked bricks should be arranged in the incision. Baked bricks and wood should not be arranged. Furthermore, straw could also be used with unbaked bricks. The soil is then piled on the deceased.

The actual soil which is dug out to make a grave for the deceased should be used to fill the grave once the deceased has been buried. To add any additional soil will be Makrooh. It is desirable for one who is present at the burial to pour soil back into the grave thrice with a handful.

The person should recite with the first throw منها خلقناكم , with the second throw, ومنها نخرجكم تارة أخرى and with the third throw وفيها نعيدكم

AFTER BURIAL:

The grave should be raised a foot above ground in the shape of a hump and not flattened. After the deceased has been buried, it is Mustahab for the beginning verses of Surah Baqarah to be read where the deceased's head is resting and the last verses of it by the feet side. The attendants of the burial may supplicate collectively for the deceased after the burial while raising their hands and preferably facing the Qiblah. It is Mustahab to sprinkle some water on the grave after having buried the deceased in the grave.

It is advisable to remain behind after having burying the deceased in the grave to occupy one's self in making zikr and supplicating for the deceased. It is permissible to supplicate by the grave while either standing or sitting. There is no Talqin after the deceased has been buried.

THE GRAVE:

It is an innovation to adorn the grave with pulpits, lights, flowers and various other coverings. It is permissible to engrave simply the name of a deceased on his grave, particularly if he is famous and pious, for the purpose of identification. It is permissible to have the grave dug during one's own life. The deceased should not be buried away from the Muslim graveyard in an exclusive home or courtyard. The deceased should be buried in the area he or she has passed away. If the deceased had expressed a desire and will to be buried in a particular place, it is not necessary to execute this will and such will is void. If there is a need then it is permissible to bury a new deceased in a grave wherein the old deceased has turned to dust or even to bury multiple deceased in a single grave.

The grave should be honoured and not tread or sat upon. It is not permissible to unearth the grave and take out the deceased after being buried unless the land is proven to have belong to someone else

who does not show his consent to the grave being in his territory . It is vital to honour and respect the graves. However, when the deceased turns to soil due to the passage of long time, the ruling of it also changes it. It is permissible to construct a building on it or use that land for cultivation and growing crops .It is desirable to visit the graveyard .

ADVICE TO THE BEREAVING FAMILY:

1. Be patient and entertain complete believe, trust and hope in Allah the Al-Mighty.
2. It is more appropriate for the bereaving family to delegate a reliable, knowledgeable and calm family member or friend to assume the responsibility of contacting the authorities and arranging burial services.
3. Contact the GP as soon as possible, or the local hospital, to issue a medical certificate giving the cause of death.
4. Thereafter the death should be formally registered at the register office. It is a criminal offence to fail to register the death.
5. You may inform family members, relatives and close friends of the demise.
6. Contact the local mosque for bathing, shrouding and burial arrangements.
7. Contact the local burial service for funeral arrangements.
8. Engage yourselves in the remembrance of Allah and supplicate for the deceased.

MOURNING IN ISLAM & EXTENDING REWARD TO THE DECEASED:

It is desirable for men folk and women, when there is no fear of fitnah, to make ta`ziyat (offering coldolences to the family of the deceased). Ta`ziyat should not be done more than once. The method of ta`ziyat is to, whether before after burial, proceed to the family of the deceased and offer his condolences, bring comfort to them, advice them about patience and supplicate for them and the deceased . If a person is unable to physically visit the family members, he may write to them, call them or send a message expressing sympathy and kind regards . However, the priod of mourning and ta`ziah is only three days after which it will be makrūh (disliked).

It is not permissible to supplicate for or extend reward to a deceased who died on disbelief .However, one may express condolsences to his or her family in the following words:

أخلف الله عليك خيرا منه وأصلحك

Translation: May Allah May God compensate you with better (a believer) and Enrich you (with Islam).

It is makrūh (reprehensible) to assemble at the home of the deceased for ta`ziya. In fact, the family of the deceased and the people should disperse once the burial has taken place and occupy themselves in their occupations .

The family of the deceased should not entertain the guests by feeding them. In fact, it is mustahab (desirable) for close relatives and neighbours to prepare meal for the family of the deceased since they will be in the state of sorrow and grief and occupied in arranging the funeral of the deceased. However, this state should not persist after three days subsequent to the death.

It is permissible, and moreover recommended, to extend reward to the deceased by feeding food to the poor , observing voluntary salāh, donating Qur`an, Islamic literature and other equipment to Islamic institutions, masjids and people, digging a well, constructing a travellers lodge, spending in charity and by reciting the Qur`an without stipulating a date, day, place or position . By the virtue of extending the reward to the deceased, sorrow lessens and happiness increases, the punishment is lessened and level in paradise is elevated . The performer of any good deed should intend to extend the reward of the act to all the believers and consequently all the deceased, as well as he himself, will reap benefit from it.

It is permissible to supplicate for the deceased at his grave whether the hands are raised or not. However, one who has his hands raised should face the qiblah to remove any doubt in the mind of other since he may appear to them as asking from the deceased buried in the grave.

It is permissible to recite the Qur`an by the grave and to extend the reward to the deceased. Similarly, it is permissible for the family members and close associates to gather in a place and collectively complete the recitation of the Qur`an and thereafter extend the reward to deceased . However, where the Qur`an is recited loudly, or a portion of the Qur`an is specified, or it is enforced upon someone, or it is practised with punctuality and assumed to be necessary, or other actions are innovated therein, then it is cautious not to recite the Qur`an by the grave or complete the Qur`an in a collective manner but at home or at the masjid and then the reward should be extended. Furthermore, it is not permissible to hire an individual to recite the Qur`an in order to extend reward to the deceased in return of wages.

It is permissible for an organisation to arrange a gathering in the remembrance of a high profile person who is now deceased in order

to express their love, compassion and relationship and a means of contentment for the deceased's close family members.

ESTATES AND WILLS

THE EXPENSES OF THE ESTATE:

The inheritance and estate of the deceased should be allocated and executed after his or her death in the following sequence:

1. Funeral expenses;

The trustees are duty-bound to ensure that the expenses of funeral are moderate. However, if they are excessive in the burial expenditures, they will be required to compensate the estate for the surplus. Similarly, voluntary additional contributions such as feeding the deceased's family should not be paid out of the funeral expenses.

2. Clearance of debts.

3. Execution of bequests.

It is mustahab (desirable) for a person to bequeath some of his wealth in the cause of Allāh.

The bequest from the deceased will be approved with the following conditions:

I. The bequest must not exceed one third of the wealth remaining after clearing the debts. The person should ask the heirs to compensate from his inheritance any religious liability or obligation on him, i.e. which is the price of half a sā' (1.592136 kilograms) of wheat for each salāh and each fast missed. However, the bequest for more than one third is suspended upon the approval of the mature heirs.

- II. The bequest cannot be approved for one who is already entitled to receive inheritance unless the other heirs agree to it.
- III. The bequest must not for a non-Islamic cause.
- 4. Paying the inheritors and heirs.

WHAT IS INCLUDED IN THE ESTATE?

All that which the deceased owned and possessed during his or her lifetime will form part of estate. This includes, personal clothing, watches, glasses, rings, properties, businesses, vehicles etc. However, the wealth which is not recognised in Sharia and was acquired wrongfully, such as interest money, collateral, insurances and endowment policies will not form part of the estate.

IMPORTANCE OF DRAWING UP A WILL IN WRITING:

- If the person dies without a will, the secular law will now dictate who gets what.
- A will allows the individual to decide what happens to his or her money, property and possessions after death.
- If a person writes an official will he or she can also ensure they do not pay more Inheritance Tax than needed.
- In the absence of such a will, the Sharia does not bind the heirs to discharge the liability of the person who dies prior to discharging his liability. However, in the case of writing up a will, the heirs will be duty-bound by Sharia to pay fidyah (compensation money) from up to one third of the complete Estate.

WHAT DO I PUT IN MY WILL?

The person should include in his will:

- The names of the individuals who he or she wants to benefit from his estate
- The name of the individual who he or she wants to take care of any children under eighteen
- The name of the executor of his or her will and estate
- What should happen if the individual who he or she wants to benefit die before the person.

The individuals may write a will themselves, but they should seek legal advice from a professionals, for example from Citizens Advice (See: http://www.adviceguide.org.uk/england/relationships_e/relationships_death_and_wills_e.htm), and an Islamic scholar to ensure the will is interpreted as you would like and in accordance to the Islamic law as well as the country law.

He or she should inform the executor of the will, close friend, family member or relative where the will is stored. It is better to keep the will in a reliable and secular places such as with other important documents or with a solicitor.

LEGAL REQUIREMENTS:

However, for the will to be legally valid, the will must be formally witnessed and signed. According to the U.K law, the will should be written by a person 18 or over; made voluntarily; made by a person of sound mind; in writing; signed by the person making the will in the presence of 2 witnesses; and signed by the 2 witnesses, in the presence of the person making the will.

Furthermore, the person is required to sign and witness his or her will formally to make it legal. He or she must sign the will in the presence of 2 witnesses; get 2 witnesses to sign the will in his or her

presence, after he or she has signed it; make sure the witnesses are aged 18 or over; and if he or she needs to make any changes to the will then the same signing and witnessing process should be followed. However you must ensure the witnesses are not from amongst those whom and their married partners you want to benefit from your will. The person should update and review the Will as and when the need arises, such as when there is a change in marital status, birth in family, change in residence, or if the executor named in the Will dies.

As for making amendments to your will, one cannot make any changes in the will after it has been signed and witnessed. However, one may make an official alteration called a codicil. The person must then sign a codicil and get it witnessed in the same way as witnessing a will. However, if individuals want to update and amend their will, they are required to make an official alteration (called a codicil) or make a new will. The person must then sign the codicil or the new will and get it witnessed in the same way as witnessing the previous will. Also, one should destroy the old will and explain in the new will that it officially revokes all previous wills and codicils.



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والجنازة بالكسر السرير، وبالفتح الميث

[Al-Inayah Sharh al-Hidayah, 1: 477; Al-Lubab fi Sharh al-Kitab, 2: 287]

(إذا أحضر الرجل) أي قرب من الموت ... (ووجه إلى القبلة على شقه الأيمن)

[Al-Inayah Sharh al-Hidayah, 1: 477; Al-Lubab fi Sharh al-Kitab, 2: 287; Marāqī al-Falāh Sharh Nur al-Idhah, 137, Maktabah Imdādiyah]

هذا هو السنة

[Al-Lubab fi Sharh al-Kitab, 2: 287; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 566, Dar Tabā', Damascus]

ولكن قال الزيلعي في نصب الراية 2/942: لم أجد له شاهدا. اهـ

والمختار أن يوضع مستلقاً على فناء نحو القبلة؛ لأنه أيسر لخروج روحه (جوهرة). وإن شق عليه ترك على حاله

[Al-Lubab fi Sharh al-Kitab, 2: 287; Al-Jawharat an-Niyyarah, p. 130, Mir Muhammad Kutub Khana, Karachi]

(يوجه المحتضر) وعلامته استرخاء قدميه، واعوجاج منخره وانخساف صدغيه (القبلة) على يمينه هو السنة (وجاز الاستلقاء) على ظهره (وقدماه إليها) وهو المعتاد في زماننا (و) لكن (يرفع رأسه قليلاً) ليتوجه للقبلة (وقبل يوضع كما تيسر على الأصح) صححه في المبتغى (وإن شق عليه ترك على حاله)

[Al-Durr al-Mukhtār ma'a Radd al-Muhtār, 2: 189, H.M. Saeed Company; Al-Bahr al-Rā'iq, 2: 298, H. M. Saeed; Gunyat al-Mutamalli fi Sharhi Munyat al-Musalli, p. 576, Maktabah Rashidiyyah]

وجاز الاستلقاء على ظهره، اختاره مشايخنا ما وراء النهر، لأنه أيسر لمعالجته، ولكن تُرْفَع رأسه قليلاً ليصير وجهه إلى القبلة دون السماء

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 566]

(يلقن) ندباً، وقيل: وجوباً (بذكر الشهادتين)

[Ad-Durr al-Mukhtar ma'a Radd al-Muhtar, 2: 190, H.M. Saeed Company; Al-Bahr ar-Ra'iq, 2: 299, Maktabah Rashidiyyah; Al-Fatwa al-Alamgiriyyah, 1: 157, Maktabah Rashidiyyah]

عن أبي هريرة رضي الله تعالى عنه قال: قال رسول الله صلى الله تعالى عليه وسلم: لقنوا موتاكم لا إله إلا الله [Saheeh Muslim, 1: 300, Qadimi Kutub Khana]

عن معاذ بن جبل رضي الله تعالى عنه قال: قال رسول الله صلى الله تعالى عليه وسلم: من كان آخر كلامه لا إله إلا الله دخل الجنة [Sunan Abi Dawud, 2: 88, Maktabah Imdadiyah]

وقوله (لَقْنِ الشَّاهِدَةَ) تلقينها أن يقال عنده وهو يسمع، ولا يقال له قل لأنَّ الحال صعب عليه فربَّما يمتنع عن ذلك والعياذ بالله

[Al-Inayah Sharh al-Hidayah, 1: 477; Al-Jawharat an-Niyyarah, p. 130; [Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 567]

وإذا قالها مرة: كفاه، ولا يعيدها الملقِّن إلا أن يتكلم بكلام غيره: لتكون آخر كلامه

[Al-Lubab fi Sharh al-Kitab, 2: 287; Al-Jawharat an-Niyyarah, p. 130; [Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 567]

وصورة التلقين أن يقال عنده في حالة النزح جهرا وهو يسمع أشهد أن لا إله إلا الله وأشهد أن محمدا رسول الله

[Al-Jawharat an-Niyyarah, p. 130, Mir Muhammad Kutub Khana, Karachi]

ويسن أن يُلقِّن

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 566]

(ويُستحب لأقرباء المحتَضِر وأصدقائه وجيرانه الأخوَل عليه) للقيام بحقه والإستئناس بهم وتذكيرهم إياه ما ينفعه من وصية ونحوها، ويتجربعه الماء، لأن العطش يغلب لشدة النزح حينئذ ... ويحسن ظنه بالله تعالى، لخبر مسلم - لا يموتن أحدكم إلا وهو يُحسِن الظَّن بالله ... (ويتلون عنده سورة يس) لخبر - أقرؤوا على موتاكم يس ... وقال: المراد به من حضره الموت ... (واستحسن بعض المتأخرين سورة الرعد) لأنها تسهل طلوع الروح، لقول جابر: فإنها تهوَّن عليه خروج روحه

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 569-70]

(والصلاة عليه) صفتها (فرض كفاية) بالإجماع ... (كدفنه) وغسله وتجهيزه، فإنها فرض كفاية

[Ad-Durr al-Mukhtar ma'a Radd al-Muhtar, 2: 207, H. M. Saeed Company; Bada' i as-Sana' i, 2: 60, Maktabah Rashidiyyah]

دفن الميت فرض على الكفاية

[Al-Fatawa al-Alamgiriyyah, 1: 165, Maktabah Rashidiyyah]

فإذا مات شُدَّ لحياءه وعُغِّضَ عيناه

[al-Hidayah ma'a Al-Inayah, 1: 477]

(فإذا مات شُدُّوا لحييه) بعصاية من أسفلهما، وتُرْبَط فوق رأسه، (وعُغِّضُوا عينيه) تحسبنا له

[Al-Lubab fi Sharh al-Kitab, 2: 288; Gunyat al-Mutamalli ala Sharh Munyat al-Musalli (Halabi Saghir), p. 333, Dar an-Nashr al-Ilmiyyah; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 570]

فإذا مات شُدَّ لحياءه) ... (وعُغِّضَ عيناه) لقوله عليه الصلاة والسلام: إذا حضرتم موتاكم فأغصوا البَصْرَ، فإنَّ البصرَ يَنْتَحِ الزَّوْجَ، وقولوا خيراً فإنَّ الملائكة تُؤْمِنُ على ما قال أهل البيت.

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 570]

[Gunyat al-Mutamalli fi Sharh Munyat al-Musalli, p. 576, Rashidiyyah]

وينبغي أن يتولى ذلك أرفقُ أهل به.

[Al-Lubab fi Sharh al-Kitab, 2: 288]

ويقول مُتَمَقِّطُهُ: بسم الله، وعلى ملة رسول الله، اللهم يَسِّرْ عليه أمرَه وسهِّلْ عليه ما بعده، وأسعده بلقاءك، واجعل ما خرج إليه خيراً ممَّا خرج عنه

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 570; Gunyat al-Mutamalli fi Sharh Munyat al-Musalli, p. 576, Rashidiyyah]

وصورته أن يتولى أرفقُ أهلها أماً ولده أو والده

[Al-Jawharat an-Niyyarah, p. 131]

قاله الكمال، ثُمَّ يسجى بثوب

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 570]

ويُحَضَّر عنده الطَّيِّب

[Al-Lubab fi Sharh al-Kitab, 2: 288]

(ويُوضَع على بطنه حديقة، لئلا ينتفخ) ... وإن لم يوجد فيوضع على بطنه شين ثقيل

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 570]

[Gunyat al-Mutamalli fi Sharh Munyat al-Musalli, p. 577, Rashidiyyah]

(ويوضع بهده بجنبتيه ولا يجوز وضعهما على صدره) ... وتَلَيَّن مفاصله وأصابه

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 571]

(وَكثَرَهُ قِرَاءَةُ الْقُرْآنِ عِنْدَهُ حَتَّى يُغْشَى) تَزْيِيهِمَا لِلْقُرْآنِ عَنْ نَجَاسَةِ الْمَيْتِ

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 571]

وَيَسْتَحِبُّ أَنْ يَسَازِعَ إِلَى قَضَائِهِ دِينَهُ، أَوْ إِيرَاقِهِ مِنْهَا؛ لِأَنَّ نَفْسَ الْمَيْتِ مَعْلُوقَةٌ بِذَنبِهِ حَتَّى يُقْفَضَ عَنْهُ وَيُسْرَعَ فِي جَهَازِهِ

[Al-Lubab fi Sharh al-Kitab, 2: 289; Al-Jawharat an-Niyyarah, p. 131]

وَيَسْتَحِبُّ أَنْ يَعْلَمَ جِيرَانَهُ وَأَصْدِقَاءَهُ مَوْتَهُ حَتَّى يُوَدُّوا حَقَّهُ بِالصَّلَاةِ عَلَيْهِ وَالِدَعَاءِ لَهُ

[Al-Jawharat an-Niyyarah, p. 131]

(وَلَا بِأَسْ بِإِعْلَامِ النَّاسِ بِمَوْتِهِ) بَلْ يَنْدُبُ لِكَثْرَةِ الْمُحْلِينَ ... وَقَالَ فِي النَّهَايَةِ: فَإِنْ كَانَ عَالِمًا أَوْ مِمَّنْ يَتَرَكُ بِهِ، فَقَدْ اسْتَحْسَنَ بَعْضُ الْمُتَأَخِّرِينَ النَّدَاءَ فِي الْأَسْوَاقِ

لِجَنَازَتِهِ وَهُوَ الْأَصَحُّ. انْتَهَى. وَكَثِيرٌ مِنَ الْمَشَاحِيخِ لَمْ يَرَوْا بِأَسًا بِأَنْ يُؤَدَّنَ لِلْجَنَازَةِ لِيُؤَدِّيَ أَقَارِبُهُ وَأَصْدِقَاؤُهُ حَقَّهُ كَذَا فِي (التَّاتَارُخَانِيَّةِ) عَنْ (الْبَنَابِيغِ)

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 571]

وَإِذَا تَيَقَّنَ مَوْتَهُ (يُجْعَلُ بِتَجْهِيزِهِ) إِكْرَامًا لَهُ

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 571]

(يَنْدُبُ دَفْنَهُ فِي جِهَةِ مَوْتِهِ) ... (وَتَجْهِيزِهِ) أَيُ تَعْجِيلِ جِهَازِهِ عَقِبَ تَحَقُّقِ مَوْتِهِ، وَلِذَا كَرِهَ تَأْخِيرَ صَلَاتِهِ وَدَفْنَهُ لِيَصِلَ عَلَيْهِ جَمْعٌ عَظِيمٌ بَعْدَ صَلَاةِ الْجُمُعَةِ

Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 239, H. M. Saeed Company; Tabyin al-Haqā'iq, 1: 588, H.

M. Saeed Company; Al-Bahr ar-Rā'iq, 2: 341, Maktabah Rashidiyyah]

عَلَى الْمَعْتَدَةِ أَنْ تَعْتَدَ فِي الْمَنْزِلِ الَّذِي يُضَافُ إِلَيْهَا بِالسَّكْنَى حَالَ وَقُوعِ الْفِرْقَةِ وَالْمَوْتِ

[al-Hidāyah, 2: 428-9, Mkatabah Shirkat ilmiyyah Multan; al-Fatawa al-Hindiyyah, 1: 535, Maktabah

Rashidiyyah; Tabyin al-Haqā'iq, 3: 271, Dar al-Kutub al-Ilmiyyah Beirut]

وَإِذَا وَجِبَ الْاعْتِدَادُ فِي مَنْزِلِ الزَّوْجِ فَلَا بَأْسَ بِأَنْ يَسْكُنَا فِي بَيْتٍ وَاحِدٍ إِذَا كَانَ عَدْلًا سَوَاءَ كَانَ الطَّلَاقُ رَجْعِيًّا أَوْ بَائِنًا أَوْ ثَلَاثًا وَالْأَفْضَلُ أَنْ يَحَالَ بَيْنَهُمَا فِي الْبَيْتِ بَسْتَرٍ إِلَّا

أَنْ يَكُونَ الزَّوْجُ فَاسِقًا فَيَحَالَ بِأَمْرَةٍ ثَقَّةٍ تَقْدِرُ عَلَى الْحِيلَةِ بَيْنَهُمَا وَإِنْ تَعَذَّرَ فَلتُخْرَجْ هِيَ وَتَعْتَدَ فِي مَنْزِلٍ آخَرَ، وَكَذَا لَوْ ضَاقَ الْبَيْتُ وَإِنْ خَرَجَ هُوَ كَانَ أَوَّلَى وَلَهُمَا أَنْ

يَسْكُنَا بَعْدَ الثَّلَاثِ فِي بَيْتٍ إِذَا لَمْ يُلْقِيَا النِّقَاطَ الْأَزْوَاجِ وَلَمْ يَكُنْ فِيهِ خَوْفُ فِتْنَةٍ أَعَدَّ

وَهَكَذَا صَرَحَ فِي الْهَادِيَةِ بِأَنْ خُرُوجَهُ أَوَّلَى مِنْ خُرُوجِهَا عِنْدَ الْعَذْرِ وَلَعَلَّ الْمُرَادَ أَنَّهُ أَرْجَحُ فَيَجِبُ الْحُكْمُ بِهِ

[Al-Bahr ar-Rā'iq, 4: 261, Maktabah Rashidiyyah; Tabyin al-Haqā'iq, 3: 271-2, Dar al-Kutub al-Ilmiyyah, Beirut; al-Fatāwā at-Tātarkhāniyah, 4: 69, Idārah al-Qur'ān wa al-Uloom al-Islāmiyyah; Fatāwā

Mahmūdiyyah, 13: 391, Dar al-Iftāa Jamiah Farūqiyyah Karāchi]

The woman may only leave out of dire necessity: to earn livelihood if no other possible alternative and when fearing death or calamity on self, residence or wealth.

وَتَعْتَدُ أَنْ يَكُونَ طَلَقٌ وَمَوْتٌ فِي بَيْتٍ وَجِبَتْ فِيهِ، وَلَا تَخْرُجُ مِنْهُ إِلَّا أَنْ تَخْرُجَ أَوْ يَنْهَدِمَ الْمَنْزِلُ أَوْ تَخَافَ انْهْدَامَهُ أَوْ تَلْفَ مَالَهَا أَوْ لَا تَجِدَ كِرَاءَ الْبَيْتِ وَنَحْوَ ذَلِكَ

مِنَ الضَّرُورَاتِ

[Radd al-muhtār ala ad-Durr al-Mukhtār, 3: 536, H.M. Saeed Company; Al-Bahr ar-Rā'iq, 4: 259,

Maktabah Rashidiyyah; Tabyin al-Haqā'iq, 3: 271-2, Dar al-Kutub al-Ilmiyyah, Beirut; al-Fatāwā

at-Tātarkhāniyah, 4: 70, Idārah al-Qur'ān wa al-Uloom al-Islāmiyyah; Fatāwā Mahmūdiyyah, 13: 395,

Dar al-Iftāa Jamiah Farūqiyyah Karāchi]

وَالْمَتَوَقُّفُ عَلَيْهَا خُرُوجُهَا بِالنَّهَارِ لِحَاجَتِهَا إِلَى نَفْقَتِهَا، وَلَا تَبَيَّتْ إِلَّا فِي بَيْتِ زَوْجِهَا، فَظَاهَرَهُ أَنَّهَا لَوْ لَمْ تَكُنْ مُحْتَاجَةً إِلَى النِّفْقَةِ، لَا يَبَاحُ لَهَا الْخُرُوجُ نَهَارًا

[Al-Bahr ar-Rā'iq, 4: 259, Maktabah Rashidiyyah; Tabyin al-Haqā'iq, 3: 271, Dar al-Kutub al-Ilmiyyah

Beirut; al-Fatāwā al-Hindiyyah, 1: 534, Maktabah Rashidiyyah; Fatāwā Mahmūdiyyah, 13: 394/6, Dar

al-Iftāa Jamiah Farūqiyyah Karāchi]

[Fatāwā Mahmūdiyyah, 13: 408, Dār al-Iftā Jamiah Faruqiyyah, Karachi]

(وَإِذَا مَاتَ الرَّجُلُ عَنْ امْرَأَتِهِ الْحَرَّةِ) دَخَلَ بِهَا أَوَّلًا، صَغِيرَةً كَانَتْ أَوْ كَبِيرَةً، مُسَلِّمَةً أَوْ كِتَابِيَةً، حَاضِيَةً فِي الْمَدَّةِ أَوْ لَمْ تَحْضَ، كَمَا فِي خَزَانَةِ الْمُفْتَيْنِ (فَعِدَّتُهَا أَرْبَعَةُ أَشْهُرٍ

وَعَشْرَةٌ) أَيَّامٍ، لِقَوْلِهِ تَعَالَى (وَيَذَرُونَ أَزْوَاجًا يُتَرَبِّصْنَ أَنْفُسَهُنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا) (نَسَخَ قَوْلُهُ تَعَالَى

(وَأُولَاتِ الْأَحْصَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ) (وَأُولَاتِ الْأَحْصَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ) (وَهُوَ

مَذْهَبُ عَمَرُ وَابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُمَا

[Al-Lubān fi Sharh al-Kitāb, 4: 200, Dār al-Bashā'ir al-Islāmiyyah]

وَقَوْلُهُ (وَعِدَّةُ الْحَرَّةِ فِي الْوَفَاةِ أَرْبَعَةُ أَشْهُرٍ وَعَشْرَةٌ) أَيَّامٍ يَقُولُهُ تَعَالَى (وَالَّذِينَ يَتَّبِعُونَ مِثْقَلُ ذَرَّةٍ مِّنْهُم مَّا يَتَذَكَّرُونَ أَزْوَاجًا يُتَرَبِّصْنَ أَنْفُسَهُنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا) (نَسَخَ قَوْلُهُ تَعَالَى

(وَأُولَاتِ الْأَحْصَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ) (وَأُولَاتِ الْأَحْصَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ) (وَهُوَ

مَذْهَبُ عَمَرُ وَابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُمَا

[Al-`Ināyah Sharh al-Hidāyah, 2: 580-1, Dār al-Kutub al-`Ilmiyyah]

(وَالْعِدَّةُ أَرْبَعَةُ أَشْهُرٍ) بِالْأَهْلِ لَوْ فِي الْغَرَةِ كَمَا (وَعَشْرٌ) مِنَ الْأَيَّامِ بِشَرْطِ بَقَاءِ النِّكَاحِ صَحِيحًا إِلَى الْمَوْتِ (مُطْلَقًا) وَطُنْتُ أَوْ لَا وَلَوْ صَغِيرَةً، أَوْ كِتَابِيَةً تَحْتَ

مِسْلَمٍ وَلَوْ عَبْدًا فَلَمْ يَخْرُجْ عَنْهَا إِلَّا الْحَامِلُ.

[Radd al-Muhtār ala ad-Durr al-Mukhtār ma'a radd al-Muhtār, 3: 510, H.M. Saeed Company]

(و) العدة (للموت أربعة أشهر) بالأهلة لو في الغرة كما مر (وعشر) من الأيام بشرط بقاء النكاح صحيحا إلى الموت (مطلقا) وطئت أو لا ولو صغيرة، أو كتابية تحت مسلم ولو عبدا فلم يخرج عنها إلا الحامل.

(قوله: فلم يخرج عنها إلا الحامل) فإن عدتها للموت وضع الحمل كما في البحر، وهذا إذا مات عنها وهي حامل، أما لو حبلت في العدة بعد موته فلا تتغير في الصحيح كما يأتي قريبا ...

قال: واعلم أن المعتدة لو حملت في عدتها ذكر الكرخي أن عدتها وضع الحمل ولم يفصل، والذي ذكره محمد أن هذا في عدة الطلاق، أما في عدة الوفاة فلا تتغير بالحمل وهو الصحيح كذا في البدائع اهـ

وفي البحر عن التارخانية: المعتدة عن وطء بشبهة إذا حبلت في العدة ثم وضعت انقضت عدتها، وفيه عن الخانية: المتوفى عنها زوجها إذا ولدت لأكثر من سنتين من الموت حكم بانقضاء عدتها قبل الولادة بستة أشهر وزيادة، فتجعل كأنها تزوجت بآخر بعد انقضاء العدة وحبلت منه

[Radd al-Muhtar alā al-durr al-Mukhtar, 3: 510-11, H.M. Saeed]

(وإذا مات الرجل عن امرأته الحرة) دخل بها أولا، صغيرة كانت أو كبيرة، مسلمة أو كتابية، حاضة في المدة أو لم تحض، كما في خزانة المفتين (فعدتها أربعة أشهر وعشرة) أيام، لقوله تعالى (ويذرون أزواجهن يتربصن بأنفسهن أربعة أشهر وعشراً)... (وإن كانت) امرأة الميت (حاملة فعدتها أن تضع حملها) أيضاً، لإطلاق قوله تعالى:

(وأولت الأحمال أجلهن أن يضعن حملهن)

[al-Lubāb fi Sharh al-Kitāb, 4: 200, Dār al-Bashā'ir al-Islāmiyyah]

وقوله (وعدة الحرة في الوفاة أربعة أشهر وعشرة أيام لقوله تعالى (وَالَّذِينَ يَتَّبِعُونَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا)) نَسَخَ قَوْلَهُ تَعَالَى (وَصِيَّةٌ لِأَزْوَاجِهِمْ مَتَاعًا إِلَى الْخَوْلِ غَيْرَ إِخْرَاجٍ) ... (وَإِنْ كَانَتْ حَامِلًا فَعِدَّتُهَا أَنْ تَضَعَ حَمْلَهَا لِإِطْلَاقِ قَوْلِهِ تَعَالَى (وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ)) وَهُوَ مُدَّخِلٌ غَيْرَ وَابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُمَا

[al-`Ināyah Sharh al-Hidāyah, 2: 580-1, Dār al-Kutub al-`Ilmiyyah]

وذكر أن محل الكراهة إذا كان قريبا منه، أما إذا بعد عنه بالقراءة فلا كراهة ...

[Radd al-Muhtar ala al-Durr al-Mukhtar, 2: 194, H.M. Saeed; al-Fatāwā al-Hindiyyah, 1: 157, Maktabah Rashidiyyah]

وتكره القراءة عنده حتى يغسل ويسرع في تجهيزه

[Gunya al-Mutamalli (Halabi al-Kabir), p. 577, Rashidiyyah]

The method of bathing can be found in: [Al-Lubab fi Sharh al-Kitab, 2: 290-2, Dar al-Basha'ir al-Ila-miyyah & Dar as-Siraj; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 572-5]

يفترض تغسيل الميت كفاية

[Nur al-Idhah ma`a Maraqqi al-Falah, p. 23, Maktabah Imdadiyyah, Multan]

وقدم الغسل لأنه أول ما يُصنع به، وهو واجب على الأحياء بالإجماع

[Al-Inayah Sharh al-Hidayah, 1: 478]

(والصلاة عليه) صفتها (فرخ كفاية) بالإجماع ... (كدفنه) وغسله وتجهيزه، فإنها فرض كفاية

[Al-Durr al-Mukhtar ma`a Radd al-Muhtar, 2: 207; Badā' I al-Sanā'i, 2: 24, Rashidiyyah; al-Fatāwā aal-Hindiyyah, 1: 158, Rashidiyyah]

وينبذ أن يكون الغاسل أقرب الناس إلى الميت، وإلا فأهل الإمامة والورع، كما في (شرح المقدسي)

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 574]

والأولى كونه أقرب الناس إليه، فإن لم يحسن الغسل فأهل الأمانة والورع

[Al-Durr al-Mukhtar ma`a Radd al-Muhtar, 2: 202; al-Bahr al-Rā'iq, 2: 306, Rashidiyyah; al-Fatāwā aal-Hindiyyah, 1: 159, Rashidiyyah]

(والمرأة تُغسل زوجها) لعل مسه، والنظر إليه لبقاء العدة، فلو ولدت عقب موته لم تغسله ... (بخلافه) الرجل فإنه لا يغسل زوجته لإنتقاط النكاح

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 575]

يجوز أن تغسل المرأة زوجها بالإجماع أما غسله زوجته فغير جائز عندنا وهو قول الثوري والأوزاعي

[Gunya al-Mutmalli (Halabi al-Kabir), p. 604, Maktabah Rashidiyyah]

For a detail explanation on why the husband is not allowed to bathe his wife, see: Imdād al-Fatāwā, 1: 565-70, Maktabah Dār al-`Ulūm Karachi; Gunyat al-Mutamalli (Halabi al-Kabir), p. 604, Maktabah

Rashidiyyah]

ويمنع زوجها من غسلها ومسها، لا من النظر إليها على الأصح

[Al-Durr al-Mukhtar ma`a Radd al-Muhtar, 2: 198; Fatawa Mahmoodiyyah, 9: 63, Dar al-Iftaa Jamiah Farooqiyyah; Imdād al-Fatāwā, 1: 582-3, Maktabah Dār al-`Ulūm Karāchī; al-Fatāwā al-Hindiyyah, 1: 160, Rashidiyyah, Ahsan al-Fatāwā, 4: 225, H.M. Saeed Company]

(ولو ماتت امرأة مع الرجال) المحارم وغيرهم (يمسها) كعكسه) وهو موت رجل بين النساء ولو كنَّ من محارمه ييممنه (بخرقه) تلف على يد الميمم الأجنبي حتى لا

يس الجسد، ويغض بصره عن ذراعي المرأة ولو عجوزا

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 575]

لو ماتت امرأة مع الرجال تيممها كعكسه بخرقه، وإن وجد ذو رحم محرم تيمم بلا خرقه

[Nur al-Idhah ma`a Marāqī al-Falāh, p. 572-3, Qadīmī Kutub Khana; Gunyat al-Mutamallī (Halabī al-Kabīr), p. 577, Rashīdiyyah] For a further discussion, see: Badā` I al-Sanā` I, 2: 34, Maktabah Rashīdiyyah]

(ويجوز للرجل والمرأة تغسيل صبيٍّ وصبيّةٍ لم يُسْتَهَيَا) لأنه ليس لأعضائهما حكم العورة

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 575]

(ولا بأس بتقبيل الميت) كذا في (المجتبى) لأن القبلة محبة، وتوديعا خالصة عن المحذور

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 575]

واختلف في الزوج، والفتوى على وجوب كفنها عليه

[Al-Durr al-mukhtār ma`a Radd al-Muhtār, 2: 206, H.M. Saeed]

وعلى قول أبي يوسف رحمه الله تعالى يجب الكفن علي الزوج وإن تركت مالا، وعليه الفتوى

[al-Fatāwā al-Hindiyyah, 1: 161, Rashīdiyyah; al-Bahr al-Rā`iq, 2: 311, Rashīdiyyah; Hāshiyat al-Tahtāwī alā Marāqī al-Falāh, p. 573-4, Qadīmī Kutub Khānā]

وأما غسل الميت فقالوا: لا تشترط لصحة الصلاة عليه، وتحصيل طهارته، وإنما هي شرط لإسقاط الفرض عن ذمة المكلفين

[Al-Ashbah wa an-Naza`ir ma`a Sharh al-Hamawī, 1: 70, Idarah al-Qur`an wa al-Ulom al-Ilamiyyah, Karachi]

وهذا لإسقاط الواجب عنه، لا لصحة الصلاة عليه

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 574]

ميت غسله أهله من غير نية الغسل، أجزأهم ذلك

[Fatāwā Qādhi Khān alā hāmish al-Fatāwā al-Hindiyyah, 1: 187, Rashīdiyyah; al-Bahr al-Rā`iq, 2: 304, Rashīdiyyah]

فتلخص: أنه لا بد في إسقاط الفرض من الفعل، وأما النية فشرط التحصيل الثواب؛ ولذا صح تغسيل الذمية زوجها المسلم مع أن النية شرطها الإسلام فيسقط الفرض عنا بفعلنا بدون نية،

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 200, H.M. Saeed]

(ويوضح) كما مات (كما تيسر) في الأصح (على سرير مجمر وتر) إلى سبع فقط

(قوله في الأصح) وقيل يوضع إلى القبلة طولاً، وقيل: عرضاً كما في القبر

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 194-5, H.M. Saeed; Al-Bahr al-Rā`iq, 2: 300, Rashīdiyyah]

”ويوضح“ الميت ”كيف اتفق على الأصح“ قاله شمس الأئمة السرخسي وقيل عرضاً وقيل إلى القبلة

قوله: ”وقيل عرضاً“ أي كما يوضع في القبر قوله: ”وقيل إلى القبلة“ فتكون رجلاه إليها كالمريض إذا أراد الصلاة بإيماء وفي القهستاني عن المحيط وغيره أنه السنة

[Hāshiyat al-Tahtāwī alā Marāqī al-Falāh, p. 567, Qadīmī Kutub Khana]

(فيوضح كما مات على سرير شجر) أي: مبخر إخفاء لكرهه الرائحة وتعظيماً للميت، تجميراً (وتر)

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 572]

وكيفيته: أن يدار بالمجمرة حول السرير

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 572]

(ويوضح) كما مات (كما تيسر) في الأصح (على سرير مجمر وتر) إلى سبع فقط

(قوله في الأصح) وقيل يوضع إلى القبلة طولاً، وقيل: عرضاً كما في القبر أفاده في البحر (قوله مجمر) أي: مبخر، وفيه إشارة إلى أن السرير يجمر قبل وضعه عليه تعظيماً

وإذا أرادوا غسله يستحب أن يضعوه على سرير أو لوح قد جمر أي أدير الجمر بالبخور حوله وتراً ثلثاً أو خمسا أو سبعا، ولا يزداد عليها كما في الفتح والكا في النهاية، وفي

التبيين لا يزداد على خمسة

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 194-5, H.M. Saeed]

[Al-Fatāwā al-Hindiyyah, 1: 158, Rashīdiyyah; Al-Bahr al-Rā`iq, 2: 300, Rashīdiyyah]

وإذا أرادوا غسله يستحب أن يضعوه على سرير أو لوح قد جمر أي أدير الجمر بالبخور حوله وتراً ثلثاً أو خمسا أو سبعا

[Gunyat al-Mutamallī fi Sharh Munyat al-Musallī, p. 577, Rashīdiyyah]

(وجعلوا على عورته خرقه؛ إقامة لأواجب الشُّرِّ ويكتفى بستر العورة الغليظة، هو الصحيح؛ تيسيراً (هداية)

[Al-Lubab fi Sharh al-Kitāb, 2: 290]

(وُسُتْر عورته) ما بين سرته إلى ركبته بشد الإزار عليه هو الصحيح، قاله الزيلعي

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 572]

[Gunyat al-Mutamalli fi Sharh Munyat al-Musalli, p. 578, Rashidiyyah]

ولكن لا يعضونه ولا يستشقونه؛ للحرج، وقيل: يُفعَلان بخرقه، وعليه الملو كان جُنْبًا أو حائضًا أو نفساء؛ فعلاً اتفاقاً؛ تنميها للطهارة (إمداد)

[Al-Lubab fi Sharh al-Kitab, 2: 290; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 572]

ومن العلماء من قال: يجعل الغاسل على إصبعيه خرقة رقيقة ويدخل الإصبع في فمه ويمسح أسنانه وشفتيه بها ... قال شمس الأئمة (الحوالي) رحمه الله: وعليه عمل الناس اليوم، كذا في (التاتارخانية)، وعلى القول بأنه بلا مضمضة وإستشاق مخصوص بغير الجنب

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 572]

وَيُسَخَّنُ إِنْ تَبَسَّرَ؛ لأنه أبلغ في التنظيف

[Al-Lubab fi Sharh al-Kitab, 2: 291]

وَيُغَسَّلُ رَأْسُهُ وَلِحْيَتُهُ بِالخُطْمِ - بكسر الخاء بكسر الخاء وتفتح وتشديد الياء : نبت بالعراق طيب الرائحة يعمل عمل الصابون؛ لأنه أبلغ في استخراج الوسخ، فإن لم يتيسر فالصابون ونحوه،

[Al-Lubab fi Sharh al-Kitab, 2: 291; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 573]

ويعسج بطنه مسحاً رقيقاً لتخرج فضلاته

[Al-Lubab fi Sharh al-Kitab, 2: 292; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 573]

ولا يعيد غسله ولا وضوءه؛ لأنه ليس بناقص في حقه، وقد حصل المأمور به

[Al-Lubab fi Sharh al-Kitab, 2: 292; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 573]

ثم إذا مسح بطنه فإن سال منه شيء مسح به كي لا يتلوث الكفن، ويغسل ذلك الموضع تطهيراً له عن النجاسة الحقيقية، ولم يذكر في ظاهر الرواية سوى المسح ولا يعيد الغسل ولا الوضوء عندنا،

[Badā'ī al-Sanā'ī, 2: 27, Rashidiyyah; Al-Durr al-Mukhtar ma'a Radd al-Muhtar, 2: 197; Al-Bahr al-Rā'iq, 2: 303, Rashidiyyah]

ثم يضحج على شقه الأيسر، فيصب الماء عليه تليئاً للفسلات المستوعبات جسده إقامةً لِسُنَّةِ التليئ. (إمداد)

[Al-Lubab fi Sharh al-Kitab, 2: 292; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 573]

ويصب عليه الماء عند كل إضجاع ثلاث مرات. (تنوير)

[Al-Lubab fi Sharh al-Kitab, 2: 292]

(ثم يُسَفَّفُ بَثْوٍ) كيلا تبتل أكفانه

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 573; Al-Lubab fi Sharh al-Kitab, 2: 292]

ويُجَعَلُ الحنوط يفتح الحاء -: عطر مركب من الأشياء الطبية، وبلا سائر أنواعه غير الزعفران والورس للرجال

[Al-Lubab fi Sharh al-Kitab, 2: 292; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 574]

والكافور على مساجده : لأن التطيب سُنَّةٌ والمساجد أولى بزيادة الكرامة. (هداية)

[Al-Lubab fi Sharh al-Kitab, 2: 293; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 574]

(مساجده) وهي: جبهته وأنفه ويداها وركبته وقدماه

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 574]

ومن استهل - بالبناء للفاعل - أي وجد منه ما يدل على حياته من شراخ أو عطاس أو تئاثب أو نحو ذلك مما يدل على الحياة المستقرّة. بعد الولادة أو خروج أكثره، والعبرة بالصدر إن نزل مستقيماً برأسه، وبسرته إن نزل منكوساً : سمي وغسل وكفن وصلى عليه وبرت وبرت

[Al-Lubab fi Sharh al-Kitab, 2: 305]

وإن لم يستهل غُسل في المختار. (هداية)، وأدرج في خرقة، ولم يُصلَّ عليه، وكذا يُغسل السَّقَط الذي لم يَتِمَّ خَافُهُ في المختار، كما في (الفتح)، (والدرية)، ويُسَمَّى، كما ذكره الطحاوي عن أبي يوسف، كذا في (التبيين)

[Al-Lubab fi Sharh al-Kitab, 2: 306]

ويندب الغسل من غسل الميت

[Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 574; Nur al-Idhah ma'a Maraqi al-Falah, p.25, Maktabah Imdadiyah, Multan]

ويُحَسَّنُ الكفن ... ويكون مما يليسه في حياته في الجمعة والعديد، وقُضِلَ البياض من القطن

[Al-Lubab fi Sharh al-Kitab, 2: 293; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 577]

فالأفضل أن يكون التكفين بالثياب البيض

وأما صفة الكفن فالأفضل أن يكون التكفين بالثياب البيض ... والبرود والكتان والقصب كل ذلك حسن، والخلق إذا غسل والجديد سواء ... والحاصل أن ما يجوز لكل جنس أن يليسه في حياته يجوز أن يكفن فيه بعد موته حتى يكره أن يكفن الرجل في الحرير والمعصر والمزعر، ولا يكره للنساء ذلك اعتباراً باللباس في حال الحياة،

[Badā'ī al-Sanā'ī, 2: 39, Rashidiyyah; al-Durr al-Mukhtar ma'a Radd al-Muhtar, 2: 205]

ولم يبيّن لون الأكفان إيجاز كل لون، لكن أحبها البياض

[Al-Bahr al-Rā'iq, 2: 308, Rashidiyyah]

- ويكفن المَيت كفن مثله، وتفسيره: أن ينظر إلى ثيابه في حياته بخروج الجمعة والعيدين، فذلك كفن مثله [Al-Bahr al-Rā`iq, 2: 308, Rashidiyyah; al-Fatāwā al-Hindiyyah, 1: 161, Rashidiyyah] (وتُجَمَّرُ الأَكْفَانُ) للرجل والمرأة جميعاً تجميراً (وترا قبل أن يُدْرَج) الميت (فيها) [Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 579] فالمواضع التي يندب فيها التجمير ثلاثة: عند خروج روحه، وعند غسله، وعند تكفينه [Al-Lubab fi Sharh al-Kitab, 2: 296] ولا يُقَصَّ ظفره، ولا يُعَقَّصُ شعره؛ لما فيه من قطع جزء منه يُحتاج إلى دفنه، فلا ينبغي فصله عنه [592: 2, batiK-la hrahS fi babuL-lA] [Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 576-7; Al-Lubab fi Sharh al-Kitab, 2: 293] ويسن في الكفن له إزار وقميص ولفافة اهـ. [Al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 202, H.M. Saeed Company; Gunyat al-Mutamalli (Halabi al-Kabir), p. 580, Rashidiyyah; al-Fatāwā al-Hindiyyah, 1: 160, Rashidiyyah] وفي البدائع: فإن كان الإزار طويلاً حتى يعطف علي رأسه وساخر جسده، فحو أولي [Al-Bahr al-Rā`iq, 2: 309, Rashidiyyah] [Fatāwā Mahmūdiyyah, 8: 509, D al-Ifṭā Jamiah Farūqiyyah, Karachi] قوله ويسن في الكفن (إلخ) أصل التكفين فرض كفاية، وكونه على هذا الشكل مسنون شرئيلية (قوله له) أي للرجل (قوله إزار إلخ) هو من القرن إلى القدم، والقميص من أصل العنق إلى القدمين بلا دخريص وكمين، واللفافة تزيد على ما فوق القرن والقدم ليلف فيها الميت وتربط من الأعلى والأسفل إمداد. [Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 202, H.M. Saeed] (الفصل الثالث في التكفين) وهو فرض على الكفاية، كذا في فتح القدير كفن الرجل سنة إزار وقميص ولفافة وكفاية إزار ولفافة وضرورة ما وجد، هكذا في الكنز. والإزار من القرن إلى القدم واللفافة كذلك والقميص من أصل العنق إلى القدم، كذا في الهداية بلا جيب ودخريص وكمين، كذا في الكافي. [al-Fatāwā al-Hindiyyah] (قوله وكفته سنة: إزار وقميص ولفافة) لحديث البخاري «كفن رسول الله - صلى الله عليه وسلم - في ثلاثة أثواب بيض سحولية» وسحول بفتح السين قرية باليمن والإزار واللفافة من القرن إلى القدم والقرن هنا بمعنى الشعر واللفافة هي الرداء طولا، وفي بعض نسخ المختار أن الإزار من المنكب إلى القدم هذا ما ذكره ويبحث فيه في فتح القدير بأنه ينبغي أن يكون إزار الميت كإزار الحي من السرة إلى الركبة؛ لأنه «- عليه السلام - أعطى اللاتي غسلن ابنته حقوة»، وهي في الأصل معقد الإزار ثم سمي به الإزار للمجاورة والقميص من المنكب إلى الأقدام بلا دخريص؛ [Al-Bahr al-Rā`iq, 2: 307, Rashidiyyah] For further discussion, see: [Fat`h al-Qadīr, 2: 115, Mustafā al-Bābi; Fatāwā Mahmūdiyyah, 8: 534, Dār al-Ifṭā Jamiah Farūqiyyah, Karāchi] ، وأما الثوب الواحد: فيكره إلا في حالة الضرورة فإن اقتضوا على ثوبين: إزار ولفافة جاز وهذا كفن الكفاية [392: 2, batiK-la hrahS fi babuL-lA] ويجعله: أي يضع الميت في أكفانه، بأن تبسط اللفافة، ثم الإزار فوقها، ثم يوضع الميت مقمّصاً، ثم يُعْطَفُ عليه الإزار ثم اللفافة [Al-Lubab fi Sharh al-Kitab, 2: 292; Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 578] ولُفَّ الإزار من جهة يساره ثم من جهة يمينه ليكون اليمين أعلى، ثم فعل باللفافة كذلك اعتباراً بحالة الحياة [Imdad al-Fattah Sharh Nur al-Idhah wa Najat al-Arwah, p. 578] (قوله ولف من يساره ثم يمينه) أي لف الكفن من يسار الميت ثم يمينه وكيفيته: أن تبسط اللفافة أولاً ثم الإزار فوقها ويوضع الميت عليهما مقمّصاً ثم يعطف عليه الإزار وحده من قبل اليسار ثم من قبل اليمين ليكون الأيمن فوق الأيسر ثم اللفافة كذلك، [Al-Bahr al-Rā`iq, 2: 309, Rashidiyyah; al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 204, H.M. Saeed] (ويعقد الكفن إن خيف إن ينتشر) صيانة عن الكشف [Majma` al-Anhur, 1: 268, Maktabah Gaffāriyah, Quetta] ويربط إن خيف إنتشاره [Gunyat al-Mutamalli (Halabi al-Kabir), p. 581 & 596, Maktabah Rashidiyyah] وتُكْفَنُ المرأةُ لثَوبَةً في خمسة أثواب [592: 2, batiK-la hrahS fi babuL-lA] [875 p. hawraA la tajaN aw hahdi-la ruN hrahS hattaF-la dadmi] وكفنها سنة: درع وإزار ولفافة وخمار وخرقة تربط ثديها [Al-Bahr al-Rā`iq, 2: 307-9, Rashidiyyah; Al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 202-3, H.M. Saeed; al-Fatāwā al-Hindiyyah, 1: 160, Rashidiyyah] فإن اقتضوا على ثلاثة أثواب: إزار وخمار ولفافة: جاز، وهذا كفن الكفاية في حقها، ويكره في أقل من ذلك إلا في حالة الضرورة [Al-Lubab fi Sharh al-Kitab, 2: 294]

ويجعل شعرها ضفيريّتين على صدرها فوق القميص، ثم تُخَمَّرُ بالخمار، ثم يُعطف عليها بالإزار، ثم تُربط الخرقه فوق ذلك تحت الصدر، فوق الثديين، ثم اللقافة [Al-Lubab fi Sharh al-Kitab, 2: 294-5]

(ويعقد الكفن إن خيف إن ينتشر) صيانة عن الكشف

[Majma' al-Anhur, 1: 268, Maktabah Gaffariyah, Quetta]

(وقد) أي الكفن (إن خيف انتشاره) صيانة عن الكشف. قال - رحمه الله - (وكفنها) أي كفن المرأة (سنة درع وإزار وخمار ولقافة وخرقة تربط بها ثديها) لحديث أم عطية - رضي الله عنها - «أن النبي - صلى الله عليه وسلم - أعطى اللواتي غسلن ابنته خمس أثواب» قال - رحمه الله - (وكفناها) أي كفننا كفاية إزار وكفافة (وخمار): لأنها أقل ما تلبسه المرأة حال حياتها وتجزو الصلاة فيها من غير كراهة فكذا بعد موتها، وما دون ذلك كفن الضرورة قال - رحمه الله - (وتلبس الدرع أولاً ثم يجعل شعرها ضفيريّتين على صدرها فوق الدرع ثم الخمار فوقه تحت اللقافة) ثم يعطف الإزار ثم اللقافة كما ذكرنا في حق الرجل ثم الخرقه فوق الأكفان لتلا تتنشر، وعرضها ما بين الثدي إلى السرة، وقيل ما بين الثدي إلى الركبة لتلا ينتشر الكفن بالفخذين وقت المشي، وما دون الثالثة كفن الضرورة في حق المرأة والمستحب في الأكفان البيض ويكره للرجال المزعفر والمعصفر والإبريسم، ولا يكره للنساء.

[Tabayin al-Haqā'iq, 1: 569, Dar al-Kutub al-'Ilmiyyah, Beirut]

والمراهق كالبالغ، ومن لم يراهق إن كفن فمع واحد، جاز

[Al-Durr al-Mukhtār ma'a Radd al-Muhtār, 2: 204, H.M. Saeed]

وأدني ما يكفن في الصبي الصغير ثوب واحد وصغيرة ثوبان

[al-Fatāwā al-hindiyyah, 1: 160, Rashidiyyah; al-Bahr al-Rā'iq, 2: 311, Rashidiyyah]

فإذا فرغوا منه صلوا عليه؛ لأنها فريضة

[692: 2, batiK-la hrahS fi babuL-LA]

الجنائز ... في الصلوة عليه وهي فرض كفاية كما مر وعليه الإجماع

[Gunyat al-Mutamalli fi Sharh Munyat al-Musalli, p.583, Maktabah Rashidiyyah; al-Durr al-Mukhtār ma'a Radd al-Muhtār, 2: 207, H.M. Saeed]

وهي فرض كفاية؛ أي الصلوة عليه ... وكذا تكفينه فرض علي الكفاية ولهذا يقدّم علي الدين الواجب عليه، ويجب علي من تجب عليه نفقته وكذا غسله ودفنه فرض علي الكفاية اهـ.

[Tabayin al-Haqā'iq, 1: 571, Dār al-Kutub al-'Ilmiyyah, Beirut]

والصلوة علي الجنائز فرض علي الكفاية

[al-Mabsūt li al-Sarkhasi, 2: 109-110 & 179, Maktabah Gaffariyah, Quetta]

الصلوة عليه ككفني ودفنه وتجهيزه فرض كفاية مع عدم انفراد بالخطاب بها ولو امرأة ... فلو انفرد واحد بأن لم يحضر إلا هو، تعيّن عليه تكفينه ودفنه كما في الضياء والشمني والبرهان اهـ.

[Hāshiyat al-Tahtāwī alā Marāqī al-Falāh, p. 580-1, Qadimi Kutub Khana]

دليل الفريضة والإجماع منعقد على فرضيتها أيضاً إلا أنها فرض كفاية إذا قام به البعض يسقط عن الباقي؛ لأن ما هو الفرض، وهو قضاء حق الميت يحصل بالبعض، ولا يمكن إيجابها على كل واحد من آحاد الناس

[Badā'ī al-Sanā'ī, 2: 36, Rashidiyyah]

فيُستحب تقديم إمام الحي؛ لأنه رُضِيَ في حياته، فكان أولى بالصلاة عليه في مماته

[Al-Lubab fi Sharh al-Kitab, 2: 296]

ثم الوليّ يترتب عُصوبة النكاح، إلا الأب، فيقدم على الابن اتفاقاً

[Al-Lubab fi Sharh al-Kitab, 2: 297]

Up to three days in winter and seven days in summer

فإن دفن ولم يصل عليه: صُلّي على قبره إلى ثلاثة أيام في الشتاء، وسبع أيام في الصيف، ولايُصَلّي بعد ذلك، والصحيح: ما لم يغلب على الظن تفسخه؛ لاختلاف الحال والزمان والمكان. (هداية)

[Al-Lubab fi Sharh al-Kitab, 2: 298]

قال: - رحمه الله - (ويقوم من الرجل والمرأة بحذاء الصدر) لما روي أحمد أن أبا غالب قال صليت خلف أنس على جنازة فقام حيال صدره؛ ولأن الصدر محل الإجماع، ومعدن الحكمة والعلم، وهو أبعد من العورة الغليظة فيكون القيام عنده إشارة إلى أن الشفاعة وقعت لأجل إجماعه، وعن أبي حنيفة وأبي يوسف أنه يقوم من الرجل بحذاء صدره، ومن المرأة بحذاء وسطها؛ لأن أنسا فعل كذلك، وقال هو السنة، وعن سمره بن جندب أنه قال «صليت وراء رسول الله - صلى الله عليه وسلم - على امرأة ماتت في نفاسها فقام وسطها» قلنا الوسط هو الصدر فإن فوقه يديه ورأسه وتحت بطنه ورجليه واختلفت الرواية عن أنس على ما تقدم.

[Tabin al-Haqā'iq, 1: 578, Dār al-Kutub al-'Ilmiyyah, Beirut]

كونه (أي الإمام) بالقرب من الصدر مندوب، وإلا فمحاذاة جزء من الميت جا بد منه، قهستاني ..

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 216, H.M. Saeed; al-Fatāwā al-Hindiyyah, 1: 164, Rashidiyyah; Badā'ī al-Sana'ī, 2: 49, Rashidiyyah; al-Mabsūt li al-Sarkhasi, 2: 111, Maktabah Gaffariyah, Quetta]

- ويصلى الجنازة ينوي الصلوة لله تعالى والدعاء للميت؛ لأنه الواجب عليه، فيقول: أصلي لله داعيا للميت
[Al-Durr al-Mukhtār ma`a Radd al-Muhtār, 1: 423, H.M. Saeed; al-Fatāwā al-Hindiyyah, 1: 66, rashidiyyah; Gunyat al-Mutamalli (Halabī al-Kabīr), 249, p. Rashidiyyah]
- وإن اشتهى عليه الميت ذكر أم أننى يقول: نويت أصلي مع الإمام علي من يصلي الإمام
[Al-Durr al-Mukhtār, 1: 423, H.M. Saeed; Gunyat al-Mutamalli (Halabī al-Kabīr), p. 249, Rashidiyyah]
- المعتبر فيها عمل قلب اللازم للإرادة وهو أن يعلم هدايته أي صلوة يصلي، والتلفظ بها مستحب وهو المختار
[al-Durr al-Mukhtār ma`a Radd al-Muhtār, 1: 415, H.M. Saeed; Badā`I al-Sanā`I, 1: 330, Rashidiyyah]
- النية إرادة الدخول في الصلاة والشرط أن يعلم بقلبه أي صلاة يصلي وأدائها ما لو سئل لأمكنه أن يجب على البديهة وإن لم يقدر على أن يجيب إلا بتأمل لم تجز
صلاته ولا عبرة للذكر باللسان فإن فعله لتجتمع عزمة قلبه فهو حسن كذا في الكافي.
[al-Fatāwā al-Hindiyyah, 1: 65, Maktabah Rashidiyyah]
- أما نية إمامة الرجال فلا يحتاج إليها ويصح اقتدائهم به بدون نية إمامتهم
[Badā`I al-Sanā`I, 1: 330, Rashidiyyah; al-Durr al-Mukhtār, 1: 424, H.M. Saeed; al-fatāwā al-Hindiyyah, 1: 66, Rashidiyyah]
- (وركنها) شيان (التكبيرات) الأربع .. (والقيام)
[al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 209, H.M. Saeed; Gunyat al-Mutamalli (Halabī al-Kabīr), p. 584, Rashidiyyah]
- (وأركانها التكبيرات والقيام) ... وسننها أربع ... والرابع من السنن (الدعاء للميت)
[Hāshiyat al-Tahtāwī alā Marāqī al-Falāh, p. 580-5, Daral-Kutub al-`Ilmiyyah]
- ومن لا يحسن الدعاء ... ويؤى لا يقضى ركنية الدعاء؛ لأن نفس التكبيرات رحمة للميت وإن لم يدع له
[al-Bahr al-Rā`iq, 2: 321, Maktabah Rashidiyyah; al-Fatāwā al-Hindiyyah, 1: 164, Maktabah Rashidiyyah]
- (ويسلم) وجوبا (بعد) التكبيرة (الرابعة من غير دعاء) بعدها
[Hāshiyat al-Tahtāwī alā Marāqī al-Falāh, p. 586, Daral-Kutub al-`Ilmiyyah]
- وكيفيتها: أن يكرر تكبيرة، ويرفع يديه فيها فقط
[892:2, batiK-la hrahS fi babul-IA]
- وروي أنه صلى على قاطمة أبو بكر وكر أربعاً، وعمر صلى على أبي بكر الصديق وكر أربعاً، فإذا كبر الأولى أثنى على الله تعالى وهو أن يقول سبحانك اللهم وبحمدك
إلى آخره.
- وذكر الطحاوي أنه لا استفحاح فيه ولكن النقل العادة أنهم يستفتحون بعد تكبيرة الافتتاح، كما يستفتحون في سائر الصلوات،
[Badā`I al-Sanā`I, 2: 51, Rashidiyyah]
- وإذا كبر الثانية يأتي بالصلاة على النبي - صلى الله عليه وسلم - وهي الصلاة المعروفة وهي أن يقول: اللهم صل على محمد وعلى آل محمد إلى قوله إنك حميد
مجيد،
[Badā`I al-Sanā`I, 2: 51, Rashidiyyah; al-Bahr al-Rā`iq, 2: 321, Rashidiyyah; Al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 212, H.M. Saeed Company]
- وإذا كبر الثالثة يستغفرون للميت ويشفعون وهذا؛ لأن صلاة الجنازة دعاء للميت والسنة في الدعاء أن يقدم الحمد، ثم الصلاة على النبي - صلى الله عليه وسلم
- ثم الدعاء بعد ذلك ليكون أرجى أن يستجاب، والدعاء أن يقول اللهم اغفر لحينا وميتنا إن كان يحسنه، وإن لم يحسنه يذكر ما يدعو به في تشهد اللهم اغفر
للمؤمنين والمؤمنات إلى آخر هذا إذا كان بالغاً، فأما إذا كان صبياً فإنه يقول: اللهم اجعله لنا فرطاً وذخراً وشفعه فينا كذا روي عن أبي حنيفة وهو المروي عن النبي
- صلى الله عليه وسلم -
[Badā`I al-Sanā`I, 2: 51, Rashidiyyah]
- (ويدعوا بعد الثالثة) بأمر الآخرة والمأثور أولي
[al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 212, H. M. Saeed al-Bahr al-Rā`iq, 2: 321, Rashidiyyah]
- [Sunan Ibn Mājah, 1496; Sunan Abi Dāwud, 3201; Sunan al-Nasai, 10919; Sunan al-Tirmidhi, 1024]
Gunya al-Mutamalli (Halabī al-Kabīr), p. 586, Rashidiyyah; Halabī al-Saghīr, p. 338, Dar
al-Nashral-`Ilmiyyah; Al-`Ināyah Sharh al-Hidāyah, 1: 489, dār al-Kutub al-`Ilmiyyah]
- وهي أربع تكبيرات يقرأ دعاء الاستفتاح عقب الأولى كما في سائر الصلوات ويصلي علي النبي صلى الله عليه وسلم عقب الثانية كما بعد التشهد لأن الثناء والصلاة
عليه السلام سنة الدعاء ويدعو لنفسه وللميت ولسائر المسلمين عقب الثالثة ويسلم عقب الرابعة من غير أن يقول شيئا في ظاهر الرواية
[Gunya al-Mutamalli (Halabī al-Kabīr) fi Sharh Munyat al-Musalli, p.585-6, Maktabah Rashidiyyah]
- ثم يكرر التكبيرة الرابعة ويسلم تسليمين؛ لأنه جاء أوان التحلل، وذلك بالسلام وهل يرفع صوته بالتسليم لم يتعرض له في ظاهر الرواية، وذكر الحسن بن زياد أنه لا
يرفع صوته بالتسليم في صلاة الجنازة؛ لأن رفع الصوت مشروع للإعلام، ولا حاجة إلى الإعلام بالتسليم في صلاة الجنازة؛ لأنه مشروع عقب التكبيرة الرابعة بلا فصل،
ولكن العمل في زماننا هذا يخالف ما يقوله الحسن، وليس في ظاهر المذهب بعد التكبيرة الرابعة دعاء سوى السلام.

[Badā'ī al-Sanā'ī, 2: 51, Rashīdiyyah]

ولا يعقد بعد التكبير الرابع؛ لأنه لا يبقى ذكر مسنون حتى يعقد فالصحيح أنه يحل اليدين، ثم يسلم تسليمتين هكذا في الذخيرة [Khulāsat al-Fatāwā, 1: 225, Rashīdiyyah]

وهو سنة قيام له قرار فيه ذكر مسنون فيضع حالة الثناء وفي القنوت وتكبيرات الجنازة

[Al-Durr al-Mukhtār ma'a Radd al-Muhtār, 1: 487-8, H.M. Saeed; al-Hidāyah, 1: 102, Shirkah 'Ilmiyyah]

Many contemporary scholars including Mufti Aẓiz al-Rahmān in [Fatāwā Dār al-'Ulūm Deoband, 5: 218, Dār al-Ishā' at Karachi], Mufti Abd al-Rahīm Lājpūrī in [Fatāwā Rahīmiyyah, 7: 38, Dār al-Ishā' at Karachi] and Mufti Mahmūd Hasan Gangohī in [Fatāwā Mahmūdiyyah, 8: 555-9, Dār al-Iftā Jāmiyah Fārūqiyyah, Karachi] (may Allah be pleased with them all), have given preference to the last option

For further discussion on the topic see: Fatāwā Rahīmiyyah, 7: 38, Dār al-Ishā' at Karachi & Fatāwā Dār al-'Ulūm Deoband, 5: 218, Dār al-Ishā' at Karachi]

وأما بيان ما يكره فيها فنقول: ذكره الصلاة على الجنازة عند طلوع الشمس وغروبها، ونصف النهار لما روينا من حديث عقبة بن عامر أنه قال: «ثلاث ساعات نهانا رسول الله - صلى الله عليه وسلم - أن نصلي فيها وأن نقر فيها موتانا» والمراد من قوله: «أن نقر فيها موتانا» الصلاة على الجنازة دون الدفن إذ لا بأس بالدفن في هذه الأوقات فإن صلو في أحد هذه الأوقات لم يكن عليهم إعادتها؛ لأن صلاة الجنازة لا يتعين لأدائها وقت ففي أي وقت صليت وقعت أداءه لا قضاء، ومعنى الكراهة في هذه الأوقات يمنع جواز القضاء فيها دون الأداء، كما إذا أدى عصر يومه عند تغير الشمس على ما ذكرنا فيما تقدم، ولا تكرر الصلاة على الجنازة بعد صلاة الفجر، وبعد صلاة العصر قبل تغير الشمس؛ لأن الكراهة في هذه الأوقات ليست لمعنى في الوقت فلا يظهر في حق الفرائض لما بينا فيما تقدم.

[Badā'ī al-Sanā'ī, 2: 57-8, Rashīdiyyah]

ثلاث ساعات لا تجوز فيها المكتوبة ولا صلاة الجنازة ولا سجدة التلاوة إذا طلعت الشمس حتى ترتفع وعند الانتصاف إلى أن تزول وعند احمرارها إلى أن يغيب إلا عصر يومه ذلك فإنه يجوز أدائه عند الغروب. هكذا في فتاوى قاضي خان قال الشيخ الإمام أبو بكر محمد بن الفضل ما دام الإنسان يقدر على النظر إلى قرص الشمس فهي في الطلوع.

كذا في الخلاصة هذا إذا وجبت صلاة الجنازة وسجدة التلاوة في وقت مباح وأخرتا إلى هذا الوقت فإنه لا يجوز قطعاً أما لو وجبت في هذا الوقت وأدبنا فيه جاز؛ لأنها أدبت ناقصة كما وجبت.

[al-Fatāwā al-Hindīyyah, 1: 52, Rashīdiyyah; al-Bahr al-Rā'iq, 1: 432-4, Rashīdiyyah]

(وسجدة تلاوة، وصلاة جنازة تلبت الآية (في كامل وحضرت) الجنازة (قبل) لوجوبه كاملاً فلا يتأدى ناقصاً، فلو وجبت فيها لم يكره فعلهما: أي تحرهما.

[al-Durr al-Mukhtār ma'a Radd al-Muhtār, 1: 374, H.M. Saeed]

وإن دفن بغير صلاة صلي ما لم يغلب علي ظنه تفسخه

[al-Durr al-Mukhtār ma'a Radd al-Muhtār, 2: 224, H.M. Saeed; al-Fatāwā al-Hindīyyah, 1: 165, Rashīdiyyah; al-Bahr al-Rā'iq, 2: 319, Rashīdiyyah]

Fatāwā mahmūdiyyah, [8: 551, D al-Iftā Jāmiyah Fārūqiyyah, Karachi] states:

جب تک اس میں میت سلامت ہو، جس کی مدت عادتاً تین دن ہے

Hence, thesalāh may be observed if within three days.

«وإذا اجتمعت الجنائز فالأفراد بالصلاة لكل منها أول» وهو ظاهر «ويقدم الأفضل فالأفضل» إن لم يكن سبق «وإن اجتمعن» ولو مع سبق «وصلى عليها مرة» واحدة وحد وإن شاء جعلهم صفا عريضا ويقوم عند أفضلهم وإن شاء «جعلها» أي الجنائز «صفا طويلا مما يلي القبلة بحيث يكون صدر كل» واحد منهم «قدام الإمام» محاذيا له وقال ابن أبي ليلى يجعل رأس كل واحد أسفل من رأسه صاحبه هكذا درجات وقال أبو حنيفة وهو حسن لأن النبي صلى الله عليه وسلم رفع صاحبيه دفنوا هكذا والوضع للصلاة كذلك قال وإن وضعوا رأس كل واحد بعداء رأس الآخر فحسن وهذا كل عند التفاوت في الفضل فإن لم يكن ينبغي أن لا يعدل عن المحاذاة فلذا قال: «وراعي الترتيب» في وضعهم «فيجعل الرجال مما يلي الإمام ثم الصبيان بعدهم» أي بعد الرجال «ثم الخنثى ثم النساء» ثم المراهقات ولو كان الكل رجالا روى الحسن عن أبي حنيفة يوضع أفضلهم وأسفلهم ما يلي الإمام وهو قول أبي يوسف والحر مقدم على العبد وفي رواية الحسن إذا كان العبد أصح قدم [Hāshiyat al-Tahtāwī alā Marāqī al-Falāh, p. 592-3, Dār al-Kutub al-'Ilmiyyah]

وإذا اجتمعت الجنائز، فإفراد الصلوة أولى

[Al-Durr al-Mukhtār ma'a Radd al-Muhtār, 2: 218, H.M. Saeed Company; al-Fatāwā al-Hindīyyah, 1: 165, Rashīdiyyah]

إذا اجتمعت الجنائز للصلوة، قالوا: الإمام بالخيار إن شاء صلى عليهم دفعة واحدة وإن شاء صلى على كل جنازة صلاة على حدة

[al-Bahr al-Rā'iq, 2: 328, Rashīdiyyah]

(والمسبوق) ببعض التكبيرات لا يكره في الحال بل (ينتظر) تكبير (الإمام ليكره معه) للافتتاح لما مر أن كل تكبيرة كركعة، والمسبوق لا يبدأ بما فاتته. وقال أبو يوسف: يكره حين يحضر (كما لا ينتظر الحاضر) في (حال التحريمة) بل يكره اتفاقاً للتحريمة، لأنه كالمدرك ثم يكره ما فاتهما بعد الفراغ نسقا بل دءاء إن خشيا رفع الميت على الأعناق. وما في المجتبى من أن المدرك يكره الكل للحداد شاذ نادر (فلو جاء) المسبوق (بعد تكبيرة الإمام لرابعة فاتته الصلاة) لتعذر الدخول في تكبيرة الإمام. وعند أبي يوسف يدخل لبقاء التحريمة، فإذا سلم الإمام كبر ثلاثا كما في الحاضر وعليه الفتوى، ذكره الحلبي وغيره. -

[Al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 216-7, H.M. Saeed; Al-`Ināyah Sharh al-Hidāyah, 490-1, Dār al-Kutub al-`Ilmiyyah; al-Fatāwā al-Hindiyyah, 1: 164-5, Rashidiyyah; Tabyīn al-Haqā`iq; al-Bahr al-Rā`iq, 2: 324-5, Rashidiyyah]

أفضل صفوف الرجال في الجنائز آخرها، وفي غيرها أولها إظهارا للتواضع لتكون شفاعا أوعى للقبول

[Guniyat al-Mutamalli (Halabī al-Kabīr), p. 588, Maktabah Rashidiyyah; Hāshiyat al-Tahtāwī alā Marāqī al-Falāh, p. 307, Dār al-Kutub al-`Ilmiyyah]

(قوله في غير جنازة) أما فيها فأخبرها إظهارا للتواضع لأنهم شفاعاء فهو أخرى بقبول شفاعتهم لأن المطلوب فيها تعدد الصفوف، فلو فضل الأول امتنعوا عن التأخر عند قتلهم رحمته (قوله ثم وثم) أي ثم الصف الثاني أفضل من الثالث، وفي الجنائز ما يلي الأخير أفضل مما تقدمه

[Radd al-Muhtār alā al-Durr al-Mukhtār, 1: 570, H.M. Saeed]

ويستحبون أن يصفوا ثلاثة صفوف حتى لو كان سبعة يتقدم أحدهم للإمامة و يقف وراءه ثلاثة وراهم يثنان ثم واحد

[Guniyat al-Mutamalli (Halabī al-Kabīr), p. 588, Rashidiyyah; al-Fatāwā al-Hindiyyah, 1: 164, Rashidiyyah]

لا يقوم بالدعاء بعد صلوة الجنائز

[Khulāsāt al-Fatāwā, 1: 225, Rashidiyyah, Qutta; al-Fatāwā al-Bazzāziyyah alā hāmish al-Fatāwā al-hindiyyah, 4: 80, Rashidiyyah]

ومن يستهل صلى عليه وإلا لا ... وأقاد بقوله: (وإلا لا) أنه إذا لم يستهل، لا يصلى عليه

[Al-Bahr al-Rā`iq, 2: 330, Rashidiyyah]

ومن ولد فمات يغسل ويصلى عليه إن يستهل وإلا غسل وسمى ويدرج في خرقه ودفن ولم يصل عليه

[al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 227-8, H. M. Saeed; Tabyīn al-Haqā`iq, 1: 581, Dār al-Kutub al-`Ilmiyyah, Beirut]

For a very detailed discussion, see [Fatāwā Mahmūdiyyah, 8: 675-90, Dār al-Iftā Jamiah Faruqiyyah Karachi; Halabī al-Kabīr, p. 588, Rashidiyyah]

كرهت تحريما في مسجد جماعة هو فيه ويختلف في الخارجة والمختار الكراة اهـ.

[al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 224-5, H.M. Saeed; Al-Bahr al-Rā`iq, 2: 327, Rashidiyyah]

وصلوة الجنائز في المسجد الذي تقام فيه الجماعة مكروه

[al-Fatāwā al-Hindiyyah, 1: 165, Rashidiyyah]

[Fatāwā Mahmūdiyyah, 8: 707, Dār al-Iftā Jamiah Faruqiyyah Karāchi]

[Fatāwā Mahmūdiyyah, 8: 696, Dār al-Iftā Jamiah Faruqiyyah Karāchi]

(ويسرع بها بلا خيب) أي عذو سريع

(قوله: بلا خيب) وحد التعجيل المسنون أن يسرع به بحيث لا يضطرب الميت على الجنائز للحديث: "أسرعوا بالجنائز"

[Radd al-Muhtār ala ad-Durr al-Mukhtār, 2: 231, H. M. Saeed Company; Al-Bahr ar-Ra`iq, 2: 335, Maktabah Rashidiyyah; Bada`i as-Sana`I, 2: 43, Maktabah Rashidiyyah]

ويسنّ لحملها أربعة رجال، وينبغي لكل واحد حملها أربعين خطوة اهـ

[Maraqī al-Falah Sharh Nur al-Idhah;

وينبغي أن يحمل من كل جانب عشر خطوات لما روي في الحديث: "من حمل جنازة أربعين خطوة، كُفرت أربعين كبيرة".

[Bada`i as-Sana`I, 2: 43, Maktabah Rashidiyyah; Ad-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 231, H. M. Saeed Company]

Al-Fatawa al-Hindiyyah, 1: 162, Maktabah Rashidiyyah; Al-Bahr ar-Ra`iq, 2: 338, Maktabah Rashidiyyah

وفي حال المشي بالجنائز يقدم الرأس

[Fatawa Tatarkhaniyyah, 2: 151, Idarah al-Qur`an Karachi]

وفي حالة المشي بالجنائز يقدم الرأس، كذا في المضمرات

[Al-Fatawa al-Alamgiriyyah, 1: 162, Maktabah Rashidiyyah]

[Fatawa Mahmoodiyyah, 9: 35, Dar al-Iftaa Jamiah Farooqiyyah]

عن النبي صلى الله تعالى عليه وسلم أنه كره رفع الصوت عند قراءة القرآن والجنائز والزحف والتذكر، اهـ

[Radd al-Muhtār ala ad-Durr al-Mukhtār, 6: 398/ 2: 233; H. M. Saeed Company; Bada`i as-Sana`I, 2: 46, Maktabah Rashidiyyah]

ويكره رفع الصوت بالذكر وقراءة القرآن وغيرهما في الجنائز

[Al-Bahr ar-Ra`iq, 2: 336, Maktabah Rashidiyyah]

وعلى متبعية الجنائز الصمت، ويكره لهم رفع الصوت بالذكر وقراءة القرآن
[Al-Fatawa al-Alamgiriyyah, 1: 162, Maktabah Rashidiyyah]

وصفته أن يحفر القبر، ثم يحفر في جانب القبلة منه حفرة، فيوضع فيها الميت
[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 234, H. M. Saeed Company; Al-Bahr ar-Ra`iq, 2: 338, Maktabah Rashidiyyah; Al-Fatawa al-Amagiriyyah, 1: 165, Maktabah Rashidiyyah]
[Fatawa Mahmoodiyyah, 9: 46, Dar al-Iftaa Jamiah Farooqiyyah]

في غير دار (مقدار نصف قامة) فإن زاد فحسن (ويلحد ولا يشق) إلا في أرض رخوة" (وحفر قبره)"
(قوله: ويلحد) لأنه السنة وصفته أن يحفر القبر ثم يحفر في جانب القبلة منه حفرة فيوضع فيها الميت ويجعل ذلك كالبيت المسقف حلية
[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 234, H. M. Saeed Company]
والسنة هو اللحد دون الشق، كذا في محيط السرخسي وصفة اللحد أن يحفر القبر بتمامه ثم يحفر في جانب القبلة منه حفرة فيوضع فيها الميت، كذا في المحيط،
ويجعل ذلك كالبيت المسقف، كذا في البحر الرائق ... وروى الحسن بن زياد عن أبي حنيفة - رحمهما الله تعالى - طول القبر على قدر طول الإنسان وعرضه قدر نصف قامة، كذا في المضمرات.

[Al-Fatawa al-Hindiyyah, 1: 165-6, Maktabah Rashidiyyah; Al-Bahr ar-Ra`iq, 2: 338, Maktabah Rashidiyyah]

ولا بأس باتخاذ تابوت له عند الحاجة كرخاوة الأرض
[Ad-Durr al-Mukhtar ma`a Radd al-Muhtar, 2: 234-5; Al-Fatawa al-Alamgiriyyah, 1: 166, Maktabah Rashidiyyah]

وإن تعذر اللحد، فلا بأس بتابوت يتخذ للميت، لكن السنة أن يقرش فيه التراب
[Al-Bahr ar-Ra`iq, 2: 338, Maktabah Rashidiyyah]
وذا الرحم المحرم أولى بإدخال المرأة من غيرهم، كذا في الجوهرة النيرة. وكذا ذو الرحم غير المحرم أولى من الأجنبي، فإن لم يكن فلا بأس للأجنب وضعها، كذا في البحر الرائق

[Al-Fatawa al-Alamgiriyyah, 1: 166, Maktabah Rashidiyyah; Al-Bahr ar-Ra`iq, 2: 339, Maktabah Rashidiyyah; Fatawa Mahmoodiyyah, 9: 64, Dar al-Iftaa Jamiah Farooqiyyah]
(قوله: ويسجي قبرها): أي بثوب ونحوه استحباباً حال إدخالها القبر حتى يسوي اللبن على اللحد
[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 236]

(ويسجي قبرها، لا قبره) لأن مبنى حالن على السر والرجال على الكشف الخ
[Al-Bahr ar-Ra`iq, 2: 340, Maktabah Rashidiyyah; Majma` al-Anhar, 1: 275, Maktabah Gaffariyyah]
[Fatawa Mahmoodiyyah, 9: 66, Dar al-Iftaa Jamiah Farooqiyyah]

وأن يقول واضعه بسم الله وبالله وعلى ملة رسول الله صلى الله عليه وسلم ويوجه إليها
[Ad-Durr al-Mukhtar ma`a Rad al-Muhtar, 2: 235; Al-Fatawa al-Alamgiriyyah, 166: 1; Al-Bahr ar-Ra`iq, 2: 339]

[77: 9, ayidoomhaM awataF]

(ويوجه إليها) وجوبا، وينبغي كونه على شقه الأيمن، ولا ينشئ ليوجه إليها
[Ad-Durr al-Mukhtar, 2: 235-6; Al-Bahr ar-Ra`iq, 2: 339, Maktabah Rashidiyyah; Al-Fatawa al-Alamgiriyyah, 1: 166, Maktabah Rashidiyyah]

وذكر في المحيط: ... والرابع في اللحد يضطجع على شقه الأيمن، وجهه إلى القبلة، هكذا توارث السنة
[Al-Bahr ar-Ra`iq, 2: 299, Maktabah Rashidiyyah; Fatwa Mahmoodiyyah, 9: 56, Dar al-Iftaa Jamiah Farooqiyyah; Fatawa Qadhi Khan ala Hamish al-Fatawa al-Alamgiriyyah, 1: 194, Maktabah Rashidiyyah]

ويوضع في القبر على جنبه الأيمن مستقبل القبلة، وتحل العقدة
[Al-Fatawa al-Alamgiriyyah, 1: 166, Maktabah Rashidiyyah]
(وتحل العقدة) لأمر النبي صلى الله تعالى عليه وسلم سمره رضي الله تعالى عنه وقد مات له ابن: "طلق عقد رأسه وعقد رجله"
[Hāshiyat al-Tahtāwī alā Marāqī al-Falāh, p. 209, Qadimi Kutub Khana]

وفي (الإمداد): وقال بعض مشايخنا: إنها يكره الآخر إذا أريد به الزينة، أما إذا أريد به دفع أذى السباع، أو شئ آخر: لا يكره. اه
[Al-Lubab fi Sharh al-Kitab, 2: 304]

(ويقال التراب عليه، وتكره زيادة عليه) من التراب، لأنه بمنزلة البناء
[Ad-Durr al-Mukhtar ma`a Radd al-Muhtar, 2: 236; Al-Bahr ar-Ra`iq, 2: 340; Fatawa Mahmoodiyyah, 9: 115]

ويكره أن يزيد فيه على التراب الذي خرج منه، ويجعله مرتفعاً عن الأرض قدر شبر أو أكثر بقليل

[Maraqi al-Falah Sharh Nur al-Idhah

قال في الجوهرة: ويقول في الحثية الأولى (منها خلقناكم) وفي الثانية (وفيها نعيدكم) وفي الثالثة (ومننا نخرجكم تارة أخرى)
[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 237, H.M. Saeed Company]

ويستحب لمن شهد دفن الميت أن يثبوا في قبره ثلاث ... ويقول في الحثية الأولى (منها خلقناكم) وفي الثانية (وفيها نعيدكم) وفي الثالثة (ومننا نخرجكم تارة أخرى)
[Al-Fatawa al-Alamgiriyyah, 1: 166, Maktabah Rashidiyyah]

ويسمى القبر: أي يجعل ترابه مرتفعاً عليه مثل سنام البعير، مقدار شبر ونحوه، وتكره الزيادة على التراب الذي خرج منه
[Al-Lubab fi Sharh al-Kitab, 2: 304]

وَيُسَمَّى الْقَبْرُ، وَلَا يُسَطَّحُ

[Al-Lubab fi Sharh al-Kitab, 2: 304]

وكان ابن عمر رضي الله تعالى عنه يستحب أن يقرأ على القبر بعد الدفن أول سورة البقرة وخاتمتها ... فقد ثبت أنه عليه الصلوة والسلام قرأ أول سورة البقرة عند رأس الميت وأخبرها عند رجليه

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 237, 242, H.M. Saeed Company]

[Hāshiyat al-Tahtāwī alā Marāqī al-Falāh, p. 621]

وفي حديث ابن مسعود رضي الله تعالى عنه: رأيت رسول الله صلى الله عليه وسلم في قبر عبد الله ذي النجادين. الحديث. وفيه: فلما فرغ من دفنه، استقبل القبلة رافعا يديه. أخرج أبو عوانة في صحيحه

[Fat'h al-Bari, (35: 6343) 11: 173, Qadimi Kutub Khana]

[Fatawa Mahmoodiya, 9: 144/7, Dar al-Iftaa Jamiah Farooqiyyah] For a detailed discussion see: Fatawā Rahimiyyah, 6: 95-7, Dār al-Ishā`at]

(قوله ولا بأس برش الماء عليه) بل ينبغي أن يندب: لأنه - صلى الله عليه وسلم - فعله بقبر سعد؛ كما رواه ابن ماجه؛ وبقبر ولده إبراهيم؛ كما رواه أبو داود في مراسيله؛ وأمر به في قبر عثمان بن مظعون؛ كما رواه البزار

[Ad-Durr al-Mukhtar ala Radd al-Muhtar, 2: 237]

[Al-Fatawa al-Alamgiriyyah, 1: 166, Maktabah Rashidiyyah; Bada' I as-Sana`I, 2: 65, Maktabah Rashidiyyah; Fatawa Mahmoodiya, 9: 101]

عن عثمان بن عفان رضي الله تعالى عنه قال: قال النبي صلى الله عليه وسلم إذا فرغ من دفن الميت وقف عليه، وقال: "استغفروا لأخيك، واسألوا له التثبيت، فإنه الآن يسأل"

[Sunan Abi Dāwūd, (al-Janā'iz), 2: 103, Maktabah Imdādiyyah]

وجلس ساعة بعد دفنه لدعاء وقرءة بقدر ما ينحر الجوز ويرق لحمه) (ويستحب ...

(قوله: وجلس إلخ) لما في سنن أبي داود، كان النبي - صلى الله عليه وسلم - إذا فرغ من دفن الميت وقف على قبره وقال: استغفروا لأخيك واسألوا الله له التثبيت فإنه الآن يسأل، وكان ابن عمر يستحب أن يقرأ على القبر بعد الدفن أول سورة البقرة وخاتمتها. وروي أن عمرو بن العاص قال وهو في سياق الموت: إذا أنا مت فلا تصحبني نائحة ولا نار، فإذا دفنتموني فشنوا علي التراب شناً، ثم أقيموا حول قبري قدر ما ينحر جزور، ويقسم لحمها حتى أستاذس بكم وأنظر ماذا أراجع رسل ربي جوهرة

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 237; Al-Fatawa al-Alamgiriyyah, 1: 166, Maktabah Rashidiyyah; Fatawa Mahmoodiya, 9: 108]

ثم يدعو قائماً طويلاً وإن جلس يجلس بعيداً أو قريباً بحسب مرتبته في حال حياته

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 242, H.M. Saeed Company]

[Hāshiyat al-Tahtāwī alā Marāqī al-Falāh, p. 620, Qadimi Kutub Khāna]

[Al-Halabi al-Kabir, p. 576, Suhail Academy Lahore]

واضح ربه - كه تلقين بعد الميت كرام ك بارے ميں فقہائے كرام كا اختلاف ہے، بعض جواز اور بعض عدم جواز كے قائل ہيں، اس دور فساد ميں اعتقادی خرابی كی وجہ سے احتراز اولی اور افضل ہے

[Ahsan al-Fatawa, 4: 253, H.M. Saeed Company]

[Fatawa Rahimiyyah, 7: 68, Dar al-Isha`at]

For a full discussion on whether there should be Talqin or not after the deceased has been buried, see:

[Fatawa Mahmūdiya, 9: 72-6, Dar al-Iftaa Jamiah Farooqiyyah]

[Fatawa Mahmūdiya, 9: 173-84, Dar al-Iftaa Jamiah Farooqiyyah]

The response to those who use the Prophetic action of placing twigs on the grave as a proof to place flowers on grave, see: [Fatawa Mahmoodiya, 9: 177-8, Dar al-Iftaa Jamiah Farooqiyyah]

ولا بأس بالكتابة إن احتيج إليها حتى لا يذهب الأثر ولا يُتمهن. (سراجية).

[Al-Lubab fi Sharh al-Kitab, 2: 305]

[Fatāwā Mahmūdīyyah, 9: 204, Dār al-İftā Jamiah Farūqīyyah, Karachi; Fatāwā Rahīmīyyah, 6: 140-2, Dār al-Ishā'at, Karachi; Fatāwā Dīnīyyah, 2: 413, Jamī'ah Husainīyah, Rander, India]

ومن حفر قبراً لنفسه قبل موته، فلا بأس به، ويؤجر علي، هكذا عمل عمر بن عبد العزيز والربيع بن خيثم وغيرهم

[Fatawa at-Tatarkhaniyah, 2: 172, Idarah al-Qur'an Karachi; Al-Fatawa al-Alamgiriyyah, 1: 166, Maktabah Rashidiyyah; Fatawa Mahmoodiyah, 9: 86]

(ولا ينبغي أن يدفن) الميت (في الدار ولو) كان (صغيراً) لاختصاص هذه السنة بالأنبياء

(قوله في الدار) ... بل ينقل إلى مقابر المسلمين اهـ ومقتضاه أنه لا يدفن في مدفن خاص كما يفعله من يبني مدرسة ونحوها، ويبني له بقربها مدفنًا

[Rad al-Muhtar ala ad-Durr al-Muhtar, 2: 235; Al-Halabi al-Kabir, p. 607, Suhail Academy Lahore]

يندب دفنه في جهة موته: أي في مقابر أهل المكان الذي مات فيه أو قتل

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 239]

القتيل أو الميت يستحب لهما أن يدفنا في المكان الذي قتل أو مات فيه في مقابر أولئك القوم

[Al-Bahr ar-Ra'iq, 2: 342, Maktabah Rashidiyyah; al-Fatawa al-Alamgiriyyah, 1: 167, Maktabah Rashidiyyah; Fatawa Mahmoodiyah, 9: 129]

أوصى بأن يصلى عليه فلان أو يحمل بعد موته إلى بلد آخر أو يكفن في ثوب كذا ... فهي باطلة

[Ad-Durr al-Mukhtar ma'a Radd al-Muhtar, 6: 666; al-Fatawa al-Alamgiriyyah, 6: 95]

ولو بلي الميت وصار ترابا جاز دفن غيره في قبره وزرعه والبناء عليه

Al-Bahr ar-Ra'iq, 2: 342, Maktabah Rashidiyyah; Tabyin an-Haqa'iq,

أنه لا يدفن اثنان في قبر إلا للضرورة، وهذا في الابتداء، وكذا بعده. قال في الفتح، ولا يحفر قبر لدفن آخر إلا إن بلي الأول فلم يبق له عظم إلا أن لا يوجد فتضم عظام

الأول ويجعل بينهما حاجز من تراب

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 233, H. M. Saeed Company; Al-Fatawa al-Alamgiriyyah, 1: 166-7, Maktabah Rashidiyyah]

[Fatawa Mahmūdīyah, 9: 96-7, Dar al-İftaa Jamiah Farooqīyah]

ويكره الجلوس على القبر ووطؤه

[Rad al-Muhtar ala ad-Durr al-Mukhtar, 1: 245; Al-Bahr ar-Ra'iq, 2: 341, Maktabah Rashidiyyah; al-Fatawa al-Alamgiriyyah, 1: 166, Maktabah Rashidiyyah]

إذا دفن بلا غسل أو صلاة أو وضع على غير يمينه أو غير القبلة، فإنه لا ينش عليه بعد إهالة التراب

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 2: 238]

ولو وضع الميت لغير القبلة أو شقه الأيسر أو جعل رأسه موضع رجله وأهيل عليه التراب، لم ينش

[Al-Fatawa al-Hindiyyah, 1: 167]

النقل بعد الدفن على ثلاثة أوجه، في وجه يجوز بالإتفاق، وفي وجه لا يجوز بالإتفاق وفي وجه اختلاف: أما الأول فهو إذا دفن في أرض مغصوبة أو كفن في ثوب مغصوب ولم يرض صاحبه إلا بنقله عن ملكه أو نزع ثوبه، جاز أن يخرج منه، جاز بالإتفاق، وأما الثاني فكأنما إذا أرادت أن تنظر إلى وجهه ولدها أو تنقله إلى المقبرة

الأخرى، لا يجوز بالإتفاق، وأما الثالث إذا غلب الماء على القبر فقليل: يجوز تحويله، الخ [Hashiyat at-Tahtawi ala Mara'iq al-Falah, 615, Qadimi Kutub Khana; Fatawa Mahmoodiyah, 9: 131]

جاز زرعه والبناء عليه إذا بلى وصار ترابًا

[Ad-Durr al-Mukhtar ma'a Radd al-Muhtar, 2: 238]

[Tabyin al-Haqa'iq; al-Fatawa al-Alamgiriyyah, 1: 167, Maktabah Rashidiyyah; Fatawa Mahmoodiyah, 9: 125; Dar al-İftaa Jamiah Farooqīyah]

For a discussion on the permissibility of women going to the graveyard, see: [Fatāwā Dār al-'Ulūm Zakariyā, 2: 672-7, ZamZam Publishers]

http://www.adviceguide.org.uk/england/relationships_e/relationships_death_and_wills_e/what_to_do_after_a_death.htm Accessed on: 10/ 06/ 2014.

في شرح المنية: وتستحب التعزية للرجال والنساء الاتي لا يقتض، لقوله - عليه الصلاة والسلام - «من عزى أخاه مصيبة كساه الله من حلل الكرامة يوم القيامة» رواه ابن ماجه وقوله - عليه الصلاة والسلام - «من عزى مصاباً فله مثل أجره» رواه الترمذي وابن ماجه. والتعزية أن يقول: أعظم الله أجرك، وأحسن عزاءك، وغفر لميتك. اهـ.

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 240, H.M. Saeed Company]

في التتارخانية: لا ينبغي لمن عزى مرة أن يعزي مرة أخرى رواه الحسن عن أبي حنيفة. اهـ إمداد

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 241, H.M. Saeed Company]

أعن النبي صلى الله عليه وسلم أنه قال ما من مؤمن يعزي أخاه مصيبة إلا كساه الله سبحانه من حلل الكرامة يوم القيامة

[Sunan Ibn Mājah, p. 115, Qadīmī Kutub Khāna]

ولا بأس بنقله قبل دفنه والإعلام بهوتة ... ويتعزية أهله وتغيبهم في الصبر ويتأخذ طعام لهم) (

(قوله: ويتعزية أهله) أي تصبيرهم والدعاء لهم به. قال في القاموس: العزاء الصبر أو حسنه. وتعزى: انتسب. أهد فلاندا هنا الأول، وفيما قبله الثاني فافهم. قال في شرح المنية: وتستحب التعزية للرجال والنساء اللاتي لا يفتن، لقوله - عليه الصلاة والسلام - «من عزى أخاه مصيبة كساه الله من حلل الكرامة يوم القيامة» رواه ابن ماجه وقوله - عليه الصلاة والسلام - «من عزى مصابا فله مثل أجره» رواه الترمذي وابن ماجه. والتعزية أن يقول: أعظم الله أجرة، وأحسن عزاءك، وغفر لميتك. أهد

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 239-240, H.M. Saeed Company]

التعزية لصاحب المصيبة حسن، كذا في الظهيرية، وروى الحسن بن زياد إذا عزى أهل الميت مرة فلا ينبغي أن يعزبه مرة أخرى، كذا في المضمرة. ووقتها من حين يموت إلى ثلاثة أيام ويكره بعدها إلا أن يكون المعزى أو المعزى إليه غائبا فلا بأس بها وهي بعد الدفن أولى منها قبله وهذا إذا لم ير منهم جزع شديد فإن ذلك قد تمت التعزية ويستحب أن يعزى بالتعزية جميع أقارب الميت الكبار والصغار والرجال والنساء إلا أن يكون امرأة شابة فلا يعزىها إلا محارمها، كذا في السراج الوهاج.

ويستحب أن يقال لصاحب التعزية: غفر الله تعالى لميتك وتجاوز عنه وتغمد به رحمته ورزقك الصبر على مصيبته وأجره على موته، كذا في المضمرة ناقلًا عن الحجة. وأحسن ذلك تعزية رسول الله - صلى الله عليه وسلم - «إن لله ما أخذ وله ما أعطى وكل شيء عنده بأجل مسمى» ويقال في تعزية المسلم بالكاfer أعظم الله أجرة وأحسن عزاءك وفي تعزية الكافر بالمسلم أحسن الله عزاءك وغفر لميتك ولا يقال أعظم الله أجرة وفي تعزية الكافر بالكاfer أخلف الله عليك ولا نقص عدك، كذا في السراج الوهاج.

ولا بأس لأهل المصيبة أن يجلسوا في البيت أو في مسجد ثلاثة أيام والناس يأتونهم ويعزونهم ويكره الجلوس على باب الدار وما يصنع في بلاد العجم من فرش البسط والقيام على قوارع الطرق من أقبح القبائح، كذا في الظهيرية، وفي خزائن الفتاوى والجلوس للمصيبة ثلاثة أيام رخصة وتركه أحسن، كذا في معراج الدراية.

[Al-Fatawa al-Hindiyyah, 1: 167, Maktabah Rashidiyyah]

[Gunya al-Mutamalli (Halabi al-Kabir) fi sharh Munyat al-Musalli, p. 608-9, Maktabah Rashidiyyah, Quetta]

[Fatāwā Rahimiyyah, 9: 83-6, Dār al-Ishā`at, Karachi]

[Fatāwā Rahimiyyah, 9: 114, Dār al-Ishā`at, Karachi]

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 241, H.M. Saeed Company]

ما كان للنبي والذين آمنوا أن يستغفروا للمشركين ولو كانوا أولي قربى ..

[Sahih al-Bukhari, tafsir, 2: 274-5, Qadimi Kutub Khana]

والحق حرمه الدعاء بالمغفرة للكاfer

[al-Durr al-Mukhtār ma`a Radd al-Muhtār, 1: 523, H.M. Saeed Company]

I.e May Allah enrich you with Islam and compensate you with aMuslim in family

وإذا مات الكافر قبل لولده أو لقريبه في تعزيتة " أخلف الله عليك خيرا منه، وأصلحك ورزقك ولدا مسلما "؛ لأن الجزية تظهر، ويقول في تعزية المسلم: أعظم الله أجرة، وأحسن عزاءك ورحم ميتك، وأكثر عدك

[Al-Bahr al-Rā`iq Sharh Kanz al-Daqā`iq, (al-Karāhiyah), 8: 374, Maktabah Rashidiyyah]

ولا بأس بعبادة اليهودي والنصراني وفي المجوسي اختلاف كذا في التهذيب ويجوز عبادة الذمي كذا في التبيين..

واختلفوا في عبادة الفاسق والأصح أنه لا بأس بها وإذا مات الكافر قال لولده أو قريبه في تعزيتة أخلف الله عليك خيرا منه وأصلحك أي أصلحك بالإسلام ورزقك ولدا مسلما لأن الخيرية به تظهر كذا في التبيين

[al-Fatāwā al-Hindiyyah, (al-Karāhiyah), 5: 348, Maktabah Rashidiyyah]

وفي النوادر جاز يهودي أو مجوسي مات ابن له أو قريب ينبغي أن يعزى، ويقول أخلف الله عليك خيرا منه، وأصلحك وكان معناه أصلحك الله بالإسلام يعني رزقك الإسلام ورزقك ولدا مسلما كفاية

[Radd al-Muhtār alā al-durr al-Mukhtār, (al-Haẓr wa al-Ibāhah), 6: 388, H.M. Saeed Company]

[Fatāwā Mahmūdiyyah, 9: 253-4, Dār al-Iftā Jamiah Farūqiyah, Karachi]

[Fatāwā Rahimiyyah, 9: 115, Dār al-Ishā`at, Karachi]

قال كثير من متأخري أئمتنا رحمهم الله يكره الاجتماع عند صاحب حتى يأتي إليه من يعزى بل إذا رجع الناس من الدفن فليفرقوا وليشتغلوا بأمورهم الميت بأمره ويكره الجلوس على باب الدار للمصيبة فإن ذلك عمل أهل الجاهلية ونهى النبي صلى الله عليه وسلم عن ذلك ويكره في المسجد ويكره الضيافة من أهل الميت لأنها شرعت في السرور لا في الشور وهي بدعة مستحقة وقال عليه السلام: «لا عقر في الإسلام» وهو الذي كان يعقر عند القبر بقرة أو شاة ويستحب لجيران الميت والأباعد من أقاربه تهينة طعام أهل الميت يشبعهم يومهم وليتهم لقوله صلى الله عليه وسلم: «اصنعوا لآل جعفر طعاما فقد جاءهم من يشغلهم» ويلج عليهم في الأكل لأن الحزن يمنهم فيضعفهم والله ملهم الصبر ومعوذ الأجر وتستحب التعزية للرجال والنساء اللاتي لا يفتن لقوله صلى الله عليه وسلم: «من عزى أخاه مصيبة كساه الله من حلل الكرامة يوم القيامة» وقوله صلى الله عليه وسلم: «من عزى مصابا فله مثل أجره»

[Marāqī al-Falāh Sharh Nūr al-idhāh, p.151, Imdādiyyah, Multān]

ويتعزية أهله وتغيبهم في الصبر ويتأخذ طعام لهم والجلوس لها في غير مسجد ثلاثة أيام، وأولها أفضل. وتركه بعدها إلا لغائب. وتركه التعزية ثانيا، وعند القبر، وعند باب الدار؛ ويقول عظم الله أجرة، وأحسن عزاءك، وغفر لميتك وبزيارة القبور ولو للنساء لحديث «كنت تهتك من عز زيارة القبور ألا فزروها» ويقول: السلام عليكم دار قوم مؤمنين، وإننا إن شاء الله بكم لاحقون ويفرأ يس، وفي الحديث «من قرأ الإخلاص أحد عشر مرة ثم وهب أجرها للأموأت أعطي من الأجر بعدد

الأموات»

[Al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 239-43, H.M. Saeed Company]

(قوله: والجلوس لها) أي للتعزية، واستعمال لا بأس هنا على حقيقته لأنه خلاف الأولى كما صرح به في شرح المنية. وفي الأحكام عن خزانة الفتاوى: الجلوس في المصيبة ثلاثة أيام للرجال جاءت الرخصة فيه، ولا تجلس النساء قطعا اهـ (قوله: في غير مسجد) أما فيه فيكره كما في البحر عن المجتبى، وجزم به في شرح المنية والفتح، لكن في الظهيرة: لا بأس به لأهل الميت في البيت أو المسجد والناس يأتونه ويغزونه. اهـ

قلت: وما في البحر من «أنه» صلى الله عليه وسلم - جلس لما قتل جعفر وزيد بن حارثة والناس يأتون ويغزونه» اهـ يجاب عنه بأن جلوسه - صلى الله عليه وسلم - لا يمكن مقصودا للتعزية. وفي الإمداد: وقال كثير من متأخري أئمتنا يكره الاجتماع عند صاحب البيت ويكره له الجلوس في بيته حتى يأتي إليه من يعزي، بل إذا فرغ ورجع الناس من الدفن فليتفرقوا ويشغل الناس بأموهم وصاحب البيت بأمره اهـ

قلت: وهل تنتفي الكراهة بالجلوس في المسجد وقراءة القرآن حتى إذا فرغوا قام ولي الميت وعزاه الناس كما يفعل في زماننا الظاهر؟ لا لكون الجلوس مقصودا للتعزية لا القراءة ولا سيما إذا كان هذا الاجتماع والجلوس في المقبرة فوق القبور المدثورة، ولا حول ولا قوة إلا بالله (قوله وأولها أفضل) وهي بعد الدفن أفضل منها قبله لأن لأهل الميت مشغولون قبل الدفن بتجهيزه ولأن وحشتهم بعد الدفن لفراقه أكثر، وهذا إذا لم ير منهم جزع شديد، وإلا قدمت لتسكينهم جوهره (قوله وتكره بعدها) لأنها تجدد الحزن منح الظاهر أنها تنزيهية ط (قوله إلا لغائب) أي إلا أن يكون المعزي أو المعزى غائبا فلا بأس بها جوهره. قلت: والظاهر أن الحاضر الذي لم يعلم بمنزلة الغائب كما صرح به الشافعية (قوله وتكره التعزية ثانيا) في التتارخانية: لا ينبغي لمن عزى مرة أن يعزي مرة أخرى رواه الحسن عن أبي حنيفة. اهـ إمداد

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 241, H.M. Saeed Company]

(قوله وباتخاذ طعام لهم) قال في الفتح ويستحب لجيران أهل الميت والأقرباء الأباعد تهينة طعام لهم يشبعهم يومهم وليتهم، لقوله - صلى الله عليه وسلم -

«اصنعوا لآل جعفر طعاما فقد جاءهم ما يشغلهم» حسنة الترمذي وصححه الحاكم ولأنه بر ومعروف، ويلح عليهم في الأكل لأن الحزن يمنعه من ذلك فيضعفون. اهـ مطلب في كراهة الضيافة من أهل الميت

وقال أيضا: ويكره اتخاذ الضيافة من الطعام من أهل الميت لأنه شرع في السرور لا في الشور، وهي بدعة مستقبحة: وروى الإمام أحمد وابن ماجه بإسناد صحيح عن جرير بن عبد الله قال " كنا نعد الاجتماع إلى أهل الميت وصنعهم الطعام من النجاسة " اهـ

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 240, H.M. Saeed Company]

ولا بأس بأن يتخذ أهل الميت طعام، كذا في التبيين، ولا يباح اتخاذ الضيافة عند ثلاثة أيام، كذا في التتارخانية.

[al-Fatāwā al-Hindīyah]

إمّا الصدقات للفقراء والمساكين

[6: 9, na' ruQ-IA]

إن الصدقة على الغني هبة

[Radd al-Muhtār alā al-Durr al-Mukhtār, 6: 698, H.M. Saeed Company]

صرح علمائنا في باب الحج عن الغير بأن للإنسان أن يجعل ثواب عمله لغيره صلاة أو صوما أو صدقة أو غيرها كذا في الهداية، بل في زكاة التتارخانية عن المحيط: الأفضل لمن يتصدق نفلا أن ينوي لجميع المؤمنين والمؤمنات لأنها تصل إليهم ولا ينقص من أجره شيء اهـ

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 243]

والأصل فيه أن الإنسان له أن يجعل ثواب عمله لغيره صلاة أو صوما أو صدقة أو قراءة قرآن أو ذكرا أو طوافا أو حجا أو عمرة أو غير ذلك عند أصحابنا بالكتاب والسنة

[Al-Bahr ar-Ra`iq, (bāb al-Hajj `an al-ghayr), 3: 105, Maktabah Rashidiyyah; al-Hidāyah, 1: 196, `Imīyyah Multān; Fatawa at-Tatarkhaniya, 2: 545, Idarah al-Qur`an Karachi]

For a detailed academic discussion in the light of hadith on the permissibility of extending reward to the deceased and the benefit from it, see: [Fatāwā Mahmūdiyyah, 9: 209-213, Dār al-İftā Jamīah Farūqiyyah, Karachi; Fatāwā Rahīmīyyah, 6: 91-94, Dār al-Ishā`at; Fatāwā Dār al-`Ulūm Zakariyā, 2: 656-8, ZamZam Publishers]

قال النبي صلى الله عليه وسلم: من أحدث في أمرنا هذا ما ليس منه فهو رد

[Sahih al-Bukhari, 1: 370, Qadimi Kutub Khana]

(قوله وباتخاذ طعام لهم) قال في الفتح ويستحب لجيران أهل الميت والأقرباء الأباعد تهينة طعام لهم يشبعهم يومهم وليتهم، لقوله - صلى الله عليه وسلم - «اصنعوا لآل جعفر طعاما فقد جاءهم ما يشغلهم» حسنة الترمذي وصححه الحاكم ولأنه بر ومعروف، ويلح عليهم في الأكل لأن الحزن يمنعه من ذلك فيضعفون. اهـ مطلب في كراهة الضيافة من أهل الميت

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[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 240-1, H.M. Saeed Company]

[Fatāwā Mahmūdiyyah, 9: 205, Dār al-İftā Jamīah Farūqiyyah, Karachi]

[Sharh al-Sudūr li al-Suyūti, p.298-304, Dār al-Ma`rifah, Beirut]

الأفضل لمن تصدق نقلاً أن بنوي لجميع المؤمنين والمؤمنات: لأنها تصل إليهم ولا ينقص من بجره شيئاً

[Fatawa at-Tatarkhaniya, 2: 319, Idarah al-Qur`an Karachi]

وفي حديث ابن مسعود رضي الله تعالى عنه " رأيت رسول الله صلى الله عليه وسلم في قبر عبد الله ذي النجادين " الحديث وفيه " فلما فرغ من دفنه استقبل القبلة رافعا يديه " أخرجه أبو عوانة في صحيحه

[Fat`h al-Bārī, al-Du`ā mustaqbil al-Qiblah]

[Fatāwā Rahimiyyah, 6: 89, Dār al-Ishā`at]

وإن قرأ القرآن عند القبور إن نوى بذلك أن يؤنسهم صوت القرآن فإنه يقرأ

[Fatawa Qadhi Khan ala Hamish al-Fatawa al-Alamgiriyyah, 3: 422, Maktabah Rashidiyyah]

ولو مات رجل وأجلس وارثه علي قبره من يقرأ ، الأصح أنه لا يكره وهو قول محمد كذا في المضمرات

[al-Fatawa al-Hindiyyah, al-Karāhiyah (al-Qur`an `ind al-maqābir), 5: 350, Maktabah Rashidiyyah]

(قوله: ولا يكره الدفن ليلاً) والمستحب كونه نهاراً شرح المنية (قوله: ولا إجلاس القارئین عند القبر) عبارة نور الإيضاح وشرحه ولا يكره الجلوس للقراءة على القبر في المختار تنأدية القراءة على الوجه المطلوب بالسكينة والتدبر والاتعاظ. اهـ

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 245-6, H.M. Saeed Company]

وأخذ من ذلك جواز القراءة على القبر والمسئلة ذات خلاف قال الإمام تكرة لأن أهلها جيفة ولم يصح فيها شيء عنده عنه صلى الله عليه وسلم وقال محمد تستحب لورود الآثار وهو المذهب المختار كما صرحوا به في كتاب الاستحسان

[Hāshiyat al-Tahtāwī `alā Marāqī al-Falāh, p. 621, Qadimi Kutub Khana]

[Fatāwā Mahmūdiyyah, 9: 229, Dār al-Iftā Jamiah faruqiyyah, Karachi]

[Fatāwā Rahimiyyah, 6: 99-101 & 106-7, Dār al-Ishā`at]

فكم من مباح يصير بالإلتزام من غير لزوم والتخصص من غير خصوص مكروها

[Sabāhat al-fikr fī al-jahr bi al-zikr min majmū`at rasā`il al-Laknawi, 3: 34, Idārah AL-Qur`an, Karachi]

[Mirqāt al-Mafātiḥ alā Mishkāt al-masābih, (al-tashhud fī al-salāh), 3: 31, Maktabah Rashidiyyah]

الأمر إذا دار بين الكراهة والإباحة ينبغي الإفتاء بالمئح: لأن دفع مضرة أولي من جلب منفعة، فكيف لا يكون أولي من فعل أمر مباح وقد مر أن الإسراء علي المندوب يبلغه إلي حد الكراهة

[Al-Si`āyah Sharh Sharh al-Wiqāyah (surūṭ al-salāh before fasl fī al-qirā`ah), 2: 265, Suhail Academy Lahore]

واختلفوا في الاستتجار على قراءة القرآن مدة معلومة.

قال بعضهم: لا يجوز: وقال بعضهم: يجوز وهو المختار اهـ والصواب أن يقال على تعليم القرآن، فإن الخلاف فيه كما علمت لا في القراءة المجردة فإنه لا ضرورة فيها، فإن كان ما في الجوهره سبق قلم فلا كلام، وإن كان عن عمد فهو مخالف لكلامهم قاطبة فلا يقبل.

وقد أطنب في رده صاحب تبين المحارم مستنداً إلى النقول الصريحة، فمن جملة كلامه قال تاج الشريعة في شرح الهداية: إن القرآن بالأجرة لا يستحق الثواب لا للميت ولا للقارئ: وقال العيني في شرح الهداية: ومنع القارئ للدنيا، والأخذ والمعطي آثان. فالحاصل أن ما شاع في زماننا من قراءة الأجزاء بالأجرة لا يجوز: لأن فيه الأمر بالقراءة وإعطاء الثواب للأمر والقراءة لأجل المال: فإذا لم يكن للقارئ ثواب لعدم النية الصحيحة فأين يصل الثواب إلى المستأجر ولولا الأجرة ما قرأ أحد لأحد في هذا الزمان بل جعلوا القرآن العظيم مكسباً ووسيلة إلى جمع الدنيا - لنا الله وإنا إليه راجعون - اهـ

[Radd al-Muhtār alā al-Durr al-Mukhtār, (al-ijārat al-fāsīdah), 6: 56, H.M. Saeed Company]

[Fatāwā Mahmūdiyyah, 9: 256, Dār al-Iftā Jamiah Farūqiyah, Karachi]

[Mu`in al-Farā`idh (urdu), p. 10-11, Jāmiyah Husainiyah Rander, India]

الوصية غير واجبة وهي مستحبة

[Mukhtasar al-Qudūri, 6: 376, Dār al-Bashā`ir al-Islāmiyyah & Dār al-Sirāj]

و لا تجوز الوصية بما زاد على الثلث ولا لقاتل

[Mukhtasar al-Qudūri, (tahqīq from Sā`id Bakdash), 6: 376, Dār al-Bashā`ir al-Islāmiyyah and Dār al-Sirāj]

(ولو مات وعليه صلوات فائتة وأوصى بالكفارة يعطى لكل صلاة نصف صاع من بر) كالفطرة (وكذا حكم الوتر) والصوم، وإمّا يعطى (من ثلث ماله) ولو لم يترك مالا يستقرض وارثه نصف صاع مثلاً ويدفعه لفقير ثم يدفعه الفقير للوارث ثم وثم حتى يتم.

[al-Durr al-Mukhtār ma`a Radd al-Muhtār, 2: 72-3, H.M. Saeed Company]

(قوله وإمّا يعطى من ثلث ماله) أي فلو زادت الوصية على الثلث لا يلزم الولي إخراج الزائد إلا بإجازة الورثة.

[Radd al-Muhtār alā al-Durr al-Mukhtār, 2: 73, H.M. Saeed Company]

إذا مات الرجل وعليه صلوات فائنة فأوصي بأن تعطى كفارة صلواته يعطى لكل صلاة نصف صاع من بر وللوتر نصف صاع ولصوم يوم نصف صاع من ثلث ماله وإن لم يترك مالا يستقرض ورثته نصف صاع ويدفع إلى مسكين ثم يتصدق المسكين على بعض ورثته ثم يتصدق ثم وثم حتى يتم لكل صلاة ما ذكرنا، كذا في الخلاصة.

[al-Fatāwā al-Hindiyyah, 1: 125, Maktabah Rashidiyyah]

فإن الموصى إذا ترك ورثة فأما لا تصح وصيته بما زاد على الثلث إن لم يجز الورثة، وإن أجازوه صحت وصيته به

[al-Bahr al-Rā'iq, 9: 212, Maktabah Rashidiyyah]

ثم تصح الوصية لأجنبي من غير إجازة الورثة، ولا تجوز ما زاد على الثلث إلا أن يجيزه الوجبة بعد موته وهم كبار، ولا معتبر بإجازتهم في حال حياته

[al-Fatāwā al-Hindiyyah, 6: 90, Maktabah Rashidiyyah; Al-Durr al-Mukhtār ma'a Radd al-Muhtār, 6: 650-1, H.M. Saeed]

و لا تجوز الوصية لوأرث إلا أن يجيزها الورثة

[Mukhtasar al-Qudūri, (tahqiq from Sa'id Bakdash), 6: 376, Dār al-Bashā'ir al-Islāmiyyah and Dār al-Sirāj]

[Imdād al-Ahkām, 4: 571, Maktabah Dār al-Ulūm Karachi]

الحرمة تتعدد في الأموال مع العلم بها

[hayyimalsI-la moolU-la aW na' ruQ-la haradi, 792:2, iwamaH hrahS a'am, ri'ahdaN-na aw habhSA-lA]

إذا علم أن كسب مورثه حرام يحل له ، لكن إذا علم المالك بعينه، فلا شك في حرمة ووجوب رده عليه ، وهذا معنى قوله: وقيدته في الظهيرية، الخ. وفي منية المفتى: مات رجلا ويعلم الوارث أن أباه كان يكسب من حيث لا يحل، ولكن لا يعلم الطالب بعينه ليرد عليه، حل له لإرث، والأفضل أن يتورع ويتصدق بنية خصماء أبيه اه وكذا لا يحل إذا علم عين النصب مثلا وإن لم يعلم مالكة لما في البرازية: أخذ مورثه رشوة أو ظلما ، إن علم ذلك بعينه، لا يحل له أخذه، وإلا فله أخذه حكما. أما في الديانة ، فيتصدق به بنية إرضاء الخصماء اه

ويردونها على أربابها إن عرفوهم وإلا تصدقوا بها لأن سبيل الكسب الخبيث التصديق إذا تعذر الرد على صاحبه

[Radd al-Muhtar ala ad-Durr al-Mukhtar, 5:99, H.M. Saeed Company Karachi; Ibid, 6:189/386]

[Imdād al-Ahkām, 4: 571, Maktabah Dār al-Ulūm Karachi]

[Contemporary Fatawaa, p.242, Idara e Islamiat Karachi; Imdad al-Fatawa, 4:144, Maktabah Darul-Uloom Karachi; Fatawa Mahmoodiyyah, 18: 446, Dar al-Iftaa Jamiah Farooqiyyah, Karachi; Jadeed Fiqhi Masaa' il, 4:93, Kutub Khana Naeemiyyah; Fatawa Darul-Uloom Deoband, 2:705; Mahmood al-Fatawa, 3:62, Maktabah Anwar, Dabhel]

التائب من الذنب كمن لا ذنب له

[Mishkat al-Masaabeeh ma'a Mirqat al-Mafateeh, 4:1636, Dar al-Fikr, Beirut]

يوصيكم الله في أولادكم للذكر مثل حظ الأنثيين فإن كن نساء فوق اثنتين فلهن ثلثا ما ترك وإن كانت واحدة فلها النصف ولأبويه لكل واحد منهما السدس مما ترك إن كان له ولد فإن لم يكن له ولد وورثه أبواه فلأمه الثلث فإن كان له إخوة فلأمه السدس من بعد وصية يوصي بها أو دين أبواكم وأبناؤكم لا تدرون أيهم أقرب لكم نفعا فريضة من الله إن الله كان عليهما حكيما ولكم نصف ما ترك أزواجكم إن لم يكن لهن ولد فإن كان لهن ولد فلكم الربع مما تركن من بعد وصية يوصين بها أو دين ولهن الربع مما تركن إن لم يكن لكم ولد فإن كان لكم ولد فلهن الثمن مما تركن من بعد وصية توصون بها أو دين وإن كان رجل يورث كلالة أو امرأة وله أخ أو أخت فلكل واحد منهما السدس فإن كانوا أكثر من ذلك فهم شركاء في الثلث من بعد وصية يوصي بها أو دين غير مضار وصية من الله والله عليم حكيم

[21-11 :4, na' ruQ-la]

يستفتونك قل الله يفتيك في الكلالة إن امرؤ هلك ليس له ولد وله أخت فلها نصف ما ترك وهو يرثها إن لم يكن لها ولد فإن كانتا اثنتين فلهما الثلثان مما ترك وإن كانوا إخوة رجالا ونساء فللذكر مثل حظ الأنثيين يبين الله لكم أن تضلوا والله بكل شيء عليم

[671 :4, na' ruQ-la]

[Mu'in al-Farā'iz, pg. 17-22, Jamiah Husainiyyah Rander, Surat, India]

[Mukhtasar al-Qudūri, (tahqiq from Sa'id Bakdash), 6: 382-7, Dār al-Bashā'ir al-Islāmiyyah and Dār al-Sirāj]

[Minhat al-Sulūk fi sharh Tuhfat al-Mulūk, 431, Dār al-Nawādir; Nafahāt al-sulūk alā tuhfāt al-Mulūk, 296-305, Dār al-Fārūq, Amman]

ومن لا يرث بحال أربعة: المملوك، والقاتل من المقتول، والمردت، وأهل الملتين

[Mukhtasar al-Qudūri, (tahqiq from Sa'id Bakdash), 6: 382 and 388, Dār al-Bashā'ir al-Islāmiyyah and Dār al-Sirāj]

[Imdād al-Ahkām, 4: 626, Maktabah Dār al-Ulūm Karachi]

[Discourses on Islamic way of life (Islāhi Khutbāt), 6: 57-58, Dār al-Ishā'at Karachi]

Making a will. Accessed at: 10/ 06/ 2014. See: <https://www.gov.uk/make-will/make-sure-your-will-is>

ADHERING TO A SINGLE MADHAB IN ALL ITS RULINGS

INTRO* RULINGS * VIEWS OF THE HANAFI, SHAFI,
HANBALI ULAMA

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INTRODUCTION:

The prevalent Deobandī and Subcontinent position on the obligation of adhering to one school of jurisprudence (madhhab) in all its juristic rulings (masā'il) has recently come under increasing scrutiny. We will argue in this paper that this position is not only more sound in our context, but is also supported by strong positions from within each of the four madhhabs and the stronger position of the Hanafi madhhab, with some of the early scholars having quoted consensus. As the discussion is relatively lengthy, readers who wish to avoid the details may skip the technical discussion and read the brief summary presented at the end.

The view that we will support can be summarised in the following points:

1. It is necessary for laypeople and scholars who are not mujtahids to make taqlīd of mujtahids. Moreover, following from the third century of Hijrah, the number of mujtahids of all degrees became very few and far between. Hence, the vast majority of people from that era onwards fall into this category.
2. After the codification of the madhhabs in approximately the fourth century of Hijrah, it was necessary for laypeople to adhere to a single madhhab in all its rulings. There are two principle reasons for this:
 - a. If a layperson was given the option to adopt any position he likes from the various madhhabs, it would lead to freeing him from religious obligation (taklīf), which forms the very foundation of a Muslim's relationship to the Sharī'ah. The reason for this is that the codified madhhabs generally address all small and major issues. On any particular issue, therefore, a muqallid would be exposed to

multiple differing viewpoints. Hence, if given the option to choose between them, he will be at liberty to select an opinion based on his desires. He may even consider something *harām* at one point and *halāl* at another. In other words, *dīn* becomes a thing of play, and religious obligation (*taklīf*) becomes bereft of any meaning. This dangerous implication has been expressly mentioned or alluded to by a number of major early authorities, including the early Shāfiʿī mujtahids known as the “*Ashāb al-Wujūh*,” al-Juwaynī (419 – 478 H), al-Ghazālī (450 – 505 H), Ilkiyā al-Harrāsī (450 – 504), al-Arsābandī al-Hanafī (d. 512 H), al-Jilī (470 – 541 H), al-Māzirī (453 – 536 H) and Ibn al-Munayyir al-Mālikī (620 – 683 H). Their statements or the opinions transmitted from them will be quoted below.

Furthermore, if given the option of selecting any opinion one likes, a person may unknowingly fall into *talfiq* which is invalid by consensus. Moreover, it may open the door to selecting opinions outside of the established *madhhabs*, leading to following *shādh*dh opinions, something that has been strongly condemned by the ‘*ulamā*’. These further implications have been alluded to, in particular, by al-Māzirī. Hence, the obligation of following a single *madhhab* is a precautionary measure against these negative repercussions.

b. If given the option of following any *madhhab* one wished on different issues, a major inconsistency will arise in a layperson’s juristic methodology. Each Imām and his *madhhab* has a distinct methodology and distinct points of reference to earlier proto-*madhhabs*. If a layperson followed different *madhhabs* on different issues, it would lead to contradictions in the basic principles on which the rulings are based. For example, if someone followed the Hanafī *madhhab* in one ruling which is based on a particular principle and the Shāfiʿī *madhhab* on another ruling which is based on a contradictory principle, a contradiction will arise in the legal methodology, even though both issues may apparently seem distinct. ‘Allāmah Anwar

Shāh Kashmīrī explained this point in his *Fayd al-Bārī*. A translation of this passage can be found in the appendix below. Qādī ‘Iyād (476 – 544 H) also mentions this and al-Juwaynī may have alluded to it, as will be discussed below.

It is important to note here that when we speak about the necessity of restricting oneself to a single madhhab, we do not mean the views of only the founder of the madhhab, but the collective input of all the mujtahid scholars of that madhhab. The reason is that the developed madhhab represents the conclusions of one unified pattern or school of juristic thought. The prohibition of taking from multiple mujtahids in the later period, therefore, applies only to inter-madhhab disagreements and not necessarily intra-madhhab divergence. See the statements of Abu l-‘Abbās al-Nātifi (d. 446) and Ibn Hamdān al-Hanbalī (603 – 695 H) quoted below. Furthermore, the ruling under discussion applies to normal circumstances. In exceptional cases, where there is extreme difficulty in acting on the dictates of one madhhab, the ruling may change.

3. In the first few centuries of Islām, before the codification of the major madhhabs, a common person was permitted to adopt the views of different mujtahids on different issues. In this period, non-mujtahids were generally limited in the number of mujtahids they had access to and limited in the resources at their disposal for attaining firm knowledge of the view of a particular mujtahid on a certain issue of jurisprudence. As a result, the laypeople of this time were not able to seek out the opinions of scholars who held the easiest opinions on different issues. In other words, unlike the situation in the later period, a layperson of this time would not generally be aware that there are multiple differing opinions on a particular issue. On the contrary, when he receives a verdict, that may be the first and only opinion he finds on that issue.

Furthermore, a layperson would normally refer to the mujtahids of a particular town, like Makkah, Madinah or Kūfah. Scholars belonging to a particular town were generally unified in the broad contours of their juristic methodology. As a consequence, a layman would not be subject to a great degree of inconsistency in legal opinions and methodology even if he were to ask multiple mujtahids. The permissibility of adopting the views of multiple mujtahids was, moreover, based on necessity. Laypeople generally lacked access to a single mujtahid or school for verdicts on all issues of jurisprudence. Hence, to restrict them to a single mujtahid would not have been possible. Imām al-Juwaynī and others have made reference to this point. In the present time too, if it is extremely difficult to follow one madhhab due to lack of access to all positions of the school or extreme ignorance, the same rule will apply.

After the codification of madhhabs, it became necessary for a non-mujtahid to adopt one madhhab, and follow it in all its rulings. The layperson in this time in most places of the Muslim world would be exposed to the known opinions of the different madhhabs. Hence, giving legitimacy to adopt the view of any madhhab on any issue would lead to great inconsistency in the juristic methodology of a muqallid. The potential for selecting the easier opinions and playing with dīn became much more real. At this stage, a muqallid was exposed to multiple opinions in single issues, as opposed to the earlier period when the laypeople were generally not exposed to multiple opinions on single issues. Hence, giving him the option to choose between them will free him of religious obligation (taklif), and allow him to select opinions based on his desires.

Moreover, a muqallid is only qualified to assess which madhhab he feels is in general superior. He does not have the ability to adjudicate between them in individual issues. Hence, as al-Ghazālī explicitly mentions, and others have suggested, the only reason why a muqallid

would follow multiple mujtahids in the later period is in following his desires (tashahhī), even if he does not realise it.

4. Finally, it is necessary to have conviction that the madhhab one follows is correct, as stated by Fakhr al-Dīn Muhammad ibn Mahmūd al-Hanafī (d. ca. 570 H) and others. This is achieved by accepting the words of trusted scholars or based on widespread recognition of the madhhab or other such indications, as mentioned in the statement of Imām al-Ghazālī quoted below. The reason for this obligation is that the rules of Sharī'ah depend on one's belief in their veracity. If one is in doubt or does not have conviction that what he is following is correct, the rules of Sharī'ah cannot correctly be implemented.

According to the scholars of juristic theory, the correct view in a point of ijtihādī difference is in reality only one, although all mujtahids are on a right path and are rewarded for their ijtihād; and they, as well as their followers, will be excused for any error in ijtihād that falls within the parameters of legitimate disagreement. Hence, one must feel confident that the path he has chosen, i.e. his madhhab, is correct in relation to the others, which he believes are incorrect on the points where they differ with his madhhab, while acknowledging the possibility that the reverse may be true.

Statements from the Early Scholars of the Hanafī School:

One of the principles of fatwa in the Hanafī school is that, in the absence of a clear ruling from the founders of the madhhab, i.e. Imām Abū Hanīfah and his direct disciples, the fatwa of the early mujtahids in the school is binding. On the issue at hand, the ruling only became applicable after the codification of the madhhabs, when a new situation presented itself to the common Muslims, i.e. access to the conclusions of multiple recognised mujtahids following distinct legal methodologies on most issues of jurisprudence. The early mujtahids

of the Hanafī madhhab from this period clearly obligated adherence to a single madhhab in all its rulings. Hence, the views of later scholars of the madhhab like Ibn al-Humām (d. 861 H) and Ibn Nujaym (d. 969) will be disregarded.

The following are some of these statements:

1. Fakhr al-Qudāt Muhammad ibn al-Husayn Abū Bakr Arsa-bandī (d. 512) said:

“If the truth was multiple, it would be allowed for a muqallid to make taqlid of this mujtahid once and taqlid of another at another time, so this would be premising the religion on desire, which is ugly... And those who say the truth is one, consider it necessary for the layperson to follow one Imām – whose position according to him is that he is the most learned based on the evidence of inspection – and he does not oppose him in anything based on his personal whim.” (Taqwīm Usūl al-Fiqh, Dār al-Nu‘mān lil ‘Ulūm, 2:868)

In this statement, al-Arsābandī is refuting the Mu‘tazilī belief that the truth in an issue open to differences of ijtihād is multiple. He says that this would entail the layperson is allowed to follow different mujtahids which would be basing religion on desire (and not on religious obligation). Hence, there is a clear indication in this passage that the reason why one must adhere to a single madhhab is that to do otherwise would entail basing religion on desire. The reason why giving such an option to a muqallid entails basing the religion on desire has been articulated by al-Arsābandī’s Shāfi‘ī contemporary, Imām al-Ghazālī, in the passage that will be quoted from him further below. In brief, the limit of a muqallid’s ijtihād is to determine that one madhhab appears superior to the other.

Beyond that, the muqallid does not have the capacity to adjudicate between the madhhabs on individual points of difference. Hence, the only reason he would follow one madhhab in some rulings and another in other rulings is in following his desires (even if he does not realise it or believe so).

Thereafter, al-Arsābandī asserts the scholars who hold that the truth is one – meaning, the scholars whose view we subscribe to – believe that it is necessary for the layperson to follow one Imām. The process by which the layperson selects which Imām he will follow is to apply his mind and choose the one he feels is most learned. The reason he is to do this is precisely because the truth in an issue of disagreement is one. If one did not have confidence that his madhhab is superior, he would not have belief in its injunctions being correct, and in order for the laws of Sharīʿah to properly function, it is necessary that a person believes they are correct. Hence, al-Arsābandī clearly advocates the obligation of adherence to a single madhhab on the basis that giving the layperson the option to choose from different madhhabs on different occasions entails basing the religion on personal whim.

2. Ahmad ibn Muhammad ibn ʿUmar Abu l-ʿAbbās al-Nātifi (d. 446) said, commenting on a statement of Imām al-Hasan ibn Ziyād (d. 204) regarding the options available to a person “ignorant of knowledge” (al-jāhil bi l-ʿilm) when presented with multiple different fatwas:

“This is when the questioner is on the madhhab of the people of ʿIrāq, and one scholar issues fatwa on the view of Abū Hanīfah and another scholar issues fatwa on the view of Abū Yūsuf and another scholar issues fatwa on the view of Muhammad or the view of Zufar, for he may not opt for the view of al-Shāfiʿī nor the view of Mālik.” (Muʿīn al-Hukkām, p. 27)

This statement illustrates that in the fourth century, the Hanafī scholars spoke in a context of laypeople (who are “ignorant of knowledge”) adhering to a single madhhab. Moreover, such people were not allowed to step outside of the madhhab. It also illustrates “adherence to a madhhab” refers to the madhhab as a whole and not to a single person, i.e. a body of scholars belonging to the same juristic school.

It is important to note here that the view of those scholars who spoke about the layperson having a choice to select from multiple different fatwas presented to him does not contradict this paradigm, precisely because, as al-Nātifī mentioned, a layperson is restricted to follow the scholars of his school and is not necessarily restricted to any particular scholar within the school. Hence, this “choice” refers to the scholars within one’s school and not outside of it.

3. Imām Muhammad ibn Mahmūd ibn al-Husayn al-Asrūshānī (d. 632) said:

“It is permissible for a man and woman to switch from the Shāfi‘ī madhhab to the Hanafī madhhab and, likewise, vice versa, but in totality. As far as a single issue is concerned, he will not be allowed [to do that]; such that if blood was to come out from a person of the Hanafī madhhab and it flowed, it will not be permissible for him to pray before performing wudū’, imitating the madhhab of al-Shāfi‘ī in this issue, and if he prayed before performing wudū’, he will be punished.”

4. Fakhr al-Dīn Muhammad ibn Mahmūd (d. ca. 570 H) said:

“The slaves are ordered to act on the evidences of Shari‘ah... As far as the generality of the Muslims are concerned, it is not in the capacity of everyone to give preference to evidences and exercise ijtihād, but

he must give preference to an Imām he considers, and he will be a follower of him. When he contemplates and gives preference to an Imām over an Imām, and he considers his path true and right, the view of others becomes invalid for him, so it is not permissible for him to act on their madhhab, just like a mujtahid when an evidence is authentic according to him, he does not act on the remaining [evidences]. It is only such because all people are ordered to act on the command of Allāh, whether they are scholars or non-scholars, but the scholars are ordered [to do so] with evidences and precedents and giving preference to one of the evidences, and the commoners are ordered to give preference to the scholars as it is not in their capacity [to do] other than that, in order that everyone will be observant of the command of Allāh (Exalted is He).”

Although he does not state it explicitly, the reason why a non-scholar must select one scholar (i.e. mujtahid) he believes is superior – although this was not the rule in the earlier period – is because, as alluded to in this passage, to not do so would negate him being “observant of the command of Allāh” and acting on the “evidences of Sharī‘ah”. The only reason this would be so is that if the layperson is free to select whatever opinion he pleases, religious compulsion or obligation would be lifted, and he will become a follower of his personal whim as opposed to the Sharī‘ah.

Fakhr al-Dīn also said:

“Rigidity in the madhhab is wājib, and fanaticism is impermissible. Rigidity is to act on what is [the of view] his madhhab and he believes it is true and correct, and fanaticism is imprudence and rudeness with respect to the founder of another madhhab, and all that stems from his denigration. That is not permissible, because the Imāms of the Muslims are in search of what is right and they are on the truth”

5. ‘Ubayd Allāh ibn ‘Umar ibn ‘Īsā, Abū Zayd al-Dabūsī (368 – 430 H) said:

“The one who regards the truth as multiple [like the Mu‘tazilah] establishes choice for the layperson to select [from them] based on his personal whim. And the one who says the truth is one, he makes it necessary for the layperson to follow one Imām, whose position according to him is that he is the most learned based on the evidence of inspection, and he does not oppose him in anything based on his personal whim.” (Taqwīm al-Adillah, p. 410)

Al-Arsābandī’s statement quoted earlier is a rephrasing of this passage of al-Dabūsī. Hence, the same explanation applies.

6. Zahir al-Dīn al-Marghīnānī al-Kabīr ‘Alī ibn ‘Abd al-‘Azīz (d. 506) said:

“A layperson of the Hanafī madhhab bleeds and did not repeat purification, imitating al-Shāfi‘ī with respect to this ruling, that is not permissible for him.”

7. Shaykh al-Islām Burhān al-Dīn ‘Alī ibn Abī Bakr al-Marghīnānī (511 – 593 H) said:

“A [Hanafī] man suspends divorce of marriage and then he marries a woman and seeks fatwa from [a person belonging to] the Shāfi‘ī madhhab, and he issues fatwa according to his madhhab that the divorce has not occurred, it will not be a proof with respect to him.”

If a man were to say, “Every woman I marry is divorced,” the suspended divorce takes effect in the Hanafī madhhab but not in the Shāfi‘ī madhhab. According to this fatwa of Imām al-Marghīnānī, a Hanafī may not accept the fatwa of a Shāfi‘ī who tells him the divorce has not occurred.

In explaining why the early Hanafī scholars obligated the layman to stick to one madhhab, Ibn al-Humām (788 – 861 H) said:

“Most probably the compulsions [of adhering to a single madhhab] such as these from them [i.e. the earlier scholars of the school] was to prevent them [i.e. the laypeople] from seeking out the easiest opinions (tatabbu‘ al rukhas), for otherwise the layperson will select the view of a mujtahid whose opinion is least burdensome on him.” (Fath al-Qadīr)

Unfortunately, Ibn al-Humām did not agree with this established view and even allowed seeking out the easiest opinions of the madhhabs (tatabbu‘ al-rukhas)! Tatabbu‘ al-rukhas is forbidden by consensus, as stated by Ibn ‘Abd al-Barr. The personal opinion of later scholars cannot override the established consensus of the early scholars. In discussing the position attributed to ‘Izz al-Dīn ibn ‘Abd al-Salām on the permission of tatabbu‘ al rukhas, Imām al-Wan-shirīsī al-Mālikī (d. 914 H) said:

“Ibn Hazm and Abu ‘Umar [ibn ‘Abd al-Barr] have related consensus [on the prohibition of tatabbu‘ al-rukhas], and its basis is transmission, while ‘Izz al-Dīn did not clarify any basis for his fatwa, so it may be an opinion that he held and was isolated in, or a consequence of [his] opinion which is what is apparent from the force of his speech. Whatever it may be, it is an innovated view after an earlier consensus, so it is rejected (bātil) due to its implication of imputing error on the ummah, and imputing error on them is prohibited as established in the principles of Fiqh.”

We will also see from some of the statements of early Imāms that following the codification of the madhhabs, there was consensus that a layperson must adhere to a single madhhab. Hence, this early consensus too may not be superseded by the view of some later scholars. From these quotes from the early authorities of the madhhab, we

learn that the official Hanafī position is that a layperson must stick to a single madhhab, believing all its rulings are correct, and he may not switch madhhabs on single issues. The view of Ibn al-Humām and subsequent scholars in opposition to this cannot override the established position of the madhhab. ‘Allāmah Qāsim ibn Qutlūbughā (802 – 879 H) said: “The researches of our teacher [Ibn al-Humām] which are contrary to the madhhab will not be acted upon.” (Sharh ‘Uqūd Rasm al-Muftī, p. 35)

One final point we will mention here is that in the early Hanafī school, some scholars mentioned an exception to this rule, which is that a Hanafī muqallid may accept the fatwa of a Shāfi‘ī mufti in the case of the suspended divorce. However, ‘Allāmah Ibrāhīm ibn Husayn Bīrī al-Makkī (d. 1099), the Hanafī mufti of Makkah, has explained in a treatise on this subject, called Ghāyat al-Tahqīq fī ‘Adami Jawāz al-Talfīq fī l-Taqlīd – in which he addresses a number of other such doubts –, that this is not an example of leaving the madhhab nor is it an exception to the rule. This is because al-Zāhidī (d. 658 H) reported that the “Shāfi‘ī view” in this example is an opinion transmitted from Imām Muhammad ibn al-Hasan al-Shaybānī, and many of the early mujtahids from Khawārizm would issue fatwa on it.

In brief, there is nothing in the recorded views of the early mujtahid scholars of the madhhab that upsets the paradigm we have presented.

Statements from the Early Scholars of the Shāfi‘ī School:

1. Imām al-Haramayn, Abu l-Ma‘ālī ‘Abd al-Malik ibn Abī Muhammad al-Juwaynī (417 – 478 H) said:

“If it is said: Is it permissible for a layperson to subscribe in some juristic rulings to the madhhab of al-Shāfi‘ī and in some of them to the madhhab of Abū Hanīfah, and likewise the madhhab of all the

Imāms in this fashion? If you say: That is permissible, and it is not necessary for anyone to adhere to the founder of a specific madhhab, then there is no need in that case to author this book, because he has no need to recognise the “more correct” and follow what is right and true [according to him], but he does whatever he wishes according to the madhhab of whomsoever he desires.

“The answer is: We say: It is not permissible for the layperson [to do] what you mentioned. Rather, it is definitely necessary for him to specify a madhhab from these madhhabs, either the madhhab of Al-Shafi‘ī – may Allāh be pleased with him – in all cases and subsidiaries, or the madhhab of Mālik or the madhhab of Abū Hanīfah or other than them – the pleasure of Allāh be upon them. He may not subscribe to the madhhab of al-Shāfi‘ī in some of what he desires and the madhhab of Abū Hanīfah in the remainder of what he approves, because if we allowed it, that will lead to immense confusion and lack of regulation. Its outcome will be the negation of [religious] obligations and there would be no benefit to the [religious] obligation established on him, since if the madhhab of al-Shāfi‘ī necessitates the impermissibility of something and the madhhab of Abū Hanīfah necessitates the permissibility of that very thing or vice versa, if he wishes he may incline towards permissibility and if he wishes he may incline towards impermissibility, so neither permissibility nor impermissibility would be realised. In this is the negation of obligation and nullification of its benefit and uprooting of its foundation. And that is rejected (bātil). “If it is said: Was it not that in the era of the Sahābah, a person was given the option between selecting, in some cases, the madhhab of al-Siddīq, and in some, the madhhab of al-Fārūq, and likewise with respect to all the Sahābah in all cases, and they did not prevent him from that? So since this is permissible amongst the Sahābah, why is it not allowed in our time?

“The answer is that this was only so because the juristic principles

of the Sahābah were not adequate for all cases, comprehensive of all rulings, encompassing all subsidiaries, covering all details, because they laid the groundwork, founded principles, paved the foundations and did not dedicate themselves to deriving subsidiaries and elaborating the details. Hence, the madhhab of Abū Bakr was not adequate for all cases, and likewise the madhhab of all Sahābah, so because of necessity, it was permitted for muqallids to follow Abū Bakr in some cases and in that which his opinion was not found, to follow al-Fārūq. As for this era of ours, the madhhabs of the Imāms are adequate and encompassing of all, because there is no case that occurs except that you find it in the madhhab of al-Shāfi‘ī or in the madhhab of other than him, either explicitly or by derivation, so there is no necessity to follow two Imāms together.” (Mughīth al-Khalq, 13-16) This is a very explicit passage showing the reason for the difference between pre and post codification of the madhhabs.

Al-Juwaynī mentions that, if allowed to follow more than one madhhab, it will lead to two things: one is immense confusion and the other is lack of regulation. It is possible that by “immense confusion” there could be an allusion to the inconsistency in juristic methodology that would arise if a layperson followed multiple madhhabs. This is supported by his reference to the “principles” of the Sahābah which he states were insufficient for all juristic issues. On the other hand, the principles of the codified madhhabs were complete and applied to more or less all juristic issues. It is because of the insufficiency of the methodologies of the Sahābah that, out of necessity, the layperson was permitted to accept rulings from multiple mujtahids.

“Lack of regulation” refers to, as al-Juwaynī elaborated, the removal of religious obligation, by giving the legally obligated individual the option to choose between different legal rulings on the same issue.

Moreover, al-Juwaynī is emphatic in this ruling, saying it is “definitely” (hatman) obligatory on the layperson to adopt a single madhhab, and the repercussions of saying otherwise is something that is outright rejected (bātil). Scholars who in the present time hold the same strict stance, therefore, are fully justified in doing so.

2. Recording the position of Shams al-Islām Abu l-Hasan ‘Alī ibn Muhammad Ilkiyā al-Harrāsī (450 – 504 H) , Imām al-Nawawī said:

“If [a layperson] is not ascribed [to a madhhab], it is premised on two views, which Ibn Barhān related, in that: Is it necessary for the layperson to adopt a particular madhhab, adopting its dispensations and strictures?...The second [view] is it is necessary for him. Abu l-Hasan al-Ilkiyā positively asserted it, and this applies to all who have not reached the level of ijtihād from the jurists and the adherents of all sciences. Its basis is that if following any madhhab he wished was permissible, it will lead to collecting the dispensations of the madhhabs, in following his desire, and choosing between permission and prohibition, obligation and permissibility, and that will lead to relinquishing the burden of responsibility; as distinguished from the first period [of Islām] because the madhhabs incorporating laws related to all outcomes were not refined.

Based on this, it is necessary for one to strive to choose a specific madhhab he will follow. We will pave for him a simple path he should follow when striving to do so. Thus, we say: Firstly, he may not follow in this mere desire and inclination towards what he found his forefathers upon; and he may not adopt the madhhab of any of the Imāms of the Sahabah (Allah be pleased with them) and others from the early ones, even though they were more learned and higher in rank than those who came after them because they did not devote themselves entirely to compiling knowledge and outlining its prin-

ciples and its branches, so none of them had a refined, codified and approved madhhab, and only those who came after them from the Imāms who were affiliated to the madhhabs of the Sahābah and the Ṭābi‘in took up this task, undertaking the responsibility of laying down the laws pertaining to all happenings before they occurred, and attempting to clarify their principles and branches, like Mālik, Abū Hanīfah and others.” (Al-Majmū‘ Sharh al-Muhadhdhab, 1:93) The position of Ilkiyā al-Harrāsī presented here is similar to that of his teacher, al-Juwaynī. However, here there is the addition that the layperson is obligated to select the madhhab he will follow based on a personal examination of which madhhab he feels is superior.

As mentioned earlier, the reason for this obligation is the necessity to have firm belief in the correctness of the legal injunctions one is following.

3. Hujjat al-Islām al-Ghazālī, Abū Hāmid Muhammad ibn Muhammad (450 – 505 H) said while discussing the conditions for condemning a wrong (munkar):

“The fourth condition is that its being munkar is known without ijtihād. So all that is in a place of ijtihād, there is no accountability therein. Hence, a Hanafī may not condemn a Shāfi‘ī for eating a lizard and hyena and [the animal over which] saying bismillāh was left out, and a Shāfi‘ī may not condemn a Hanafī for drinking non-intoxicating nabīdh and taking inheritance of distant relatives and residing in a house which he acquired by [the right of] pre-emption of a neighbour, and other such [examples] from the places of ijtihād. “Yes, if a Shāfi‘ī sees a Shāfi‘ī drinking nabīdh and marrying without a guardian and [thereafter] engaging in intercourse with his wife, then this is in a place of consideration. The most apparent [view] is that he has [the right of] taking him to task and rebuking [him]; since none of the scholars have opined that it is permissible for a

mujtahid to act on the dictates of the ijtihād of other than him; nor that the one whose judgement in taqlid led him to a man he considers the best of the scholars that it is permissible for him to select the madhhab of other than him, choosing from the madhhabs the most pleasing of them to him. Rather, it is incumbent on every muqallid to follow his Imām in every detail. Thus, his opposition to [his] Imām is by agreement of the scholars a munkar, and he is sinful in opposing [him].” (Ihyā’ ‘Ulūm al-Dīn, 2:321)

In this passage, al-Ghazālī has quoted consensus that a muqallid must follow his Imām who he believes is superior to the other Imāms. Moreover, by mentioning that he may not “choose from the madhhabs the most pleasing of them to him,” there is an indication that the reason for this restriction is that it would lead to tatabbu’ al-rukhas and following desires.

Al-Ghazālī further said in the same passage, rejecting the contrary view:

“The view of the one who opines that it is permissible for every muqallid to choose from the madhhabs whatever he wishes is not given consideration. Probably it is not authentic that any opiner opined it at all. So this is a view that is not established, and if established, it is given no consideration.” (Ihyā’ ‘Ulūm al-Dīn, 1:322)

In this passage, it is clear that what al-Ghazālī meant by the muqallid’s “Imām” in the previous passage is his madhhab, and not the individual Imām per se. Furthermore, al-Ghazālī knows of no disagreement on the impermissibility of selecting from all the madhhabs as one wishes. Rather, it is necessary to restrict oneself to a single madhhab. And finally, he says, even if anyone were to have disagreed, his opinion is rejected.

In a letter to Qādī Abū Bakr al-Mālikī (d. 543 H), Imām al-Ghazālī said:

“It is not permissible for the muqallid of a scholar to choose the most pleasing of the madhhab to him and the most agreeable to his temperament. He must make taqlīd of his Imām who he believes to have the correct and right madhhab in relation to other than him, and follow him in all that comes and goes. Hence, it is not permissible for a Mālikī to switch to the madhhab of al-Shāfi‘ī unless it overpowers his mind that its opinions are more correct. In that case, it is necessary to make taqlīd of him in all juristic rulings. If it is not that, then there is no motive for him to oppose [his madhhab] except whim, just as it is not permissible for a mujtahid to oppose the conclusions that his ijtihād reached...

“It is necessary for every Muslim to follow what overwhelms his mind that it is the most correct in acts of devotion. This condition in the muqallid is achieved by considering what his Imām – whose opinion being sound has overwhelmed his mind – is upon as correct; just as knowledge of the best of doctors in the lands is achieved by the one who is ignorant of it. This is either through hearing from the mouths [of people] or observing most people [going to] a particular person, or his hearing two people or one person whose assessment is good [according to him] and his heart feels comfortable with him; like if he were to hear from his parents the excellence of Mālik and al-Shāfi‘ī, and he assents to it and his heart feels comfortable with it. Hence, it is not permissible [for him] to oppose his assessment.

“If he were to say: ‘My assessment in other than this legal case is that the one I made taqlīd of is wrong,’ muqallids are not entitled to this. His ijtihād in individual issues is an error and it is as though in his mind he knows that which his Imām does not know in other than this issue [in which he made taqlīd of him], and this is ignorance! As for following al-Shāfi‘ī in an issue in which he opposed a Sahābī, it is

necessary to have the assumption of al-Shāfi'ī that he did not oppose him except for an evidence stronger than the madhhab of the Sahābī. If this was not assumed, he would ascribe to al-Shāfi'ī ignorance of the position of the Sahābī, and this is impossible. This is the reason for giving preference to the madhhab of the later ones [i.e. the four Imāms] over the earlier ones [i.e. the Sahābah], despite knowledge of the superiority of their knowledge over theirs; as the earlier ones heard hadīths solitarily and dispersed in the lands and their fatwas and decrees differed in the lands, and sometimes hadīths reached them and they withheld from what they opined and decreed. In the first era, they did not get involved in collecting hadīths due to their occupation with jihād and laying down [the foundations of] the religion. Then when the people reached [the time of] the successors of the Ṭabī'in, they found Islām settled and established, so they diverted their attention towards collecting hadīths from the furthest lands and places by means of journeys and travels. Thus, the later ones inspected after encompassing all the proofs of the laws, and they did not contravene what was opined in the earlier [period] except for an evidence stronger than it..." (Al-Mi'yār al-Mu'rib, 11:164-5)

This is an explicit passage that according to al-Ghazālī, a muqallid must make taqlid of the madhhab of his Imām in all rulings. He may not follow one madhhab in some rulings and another in other rulings, and al-Ghazālī is clear that the only reason that a muqallid would do this is in following his desires. The limit of a muqallid's ijtihād is to determine that one madhhab appears superior to the other. Beyond that, the muqallid does not have the capacity to adjudicate between the madhhabs on individual points of difference. Hence, he must choose one madhhab he feels is superior and adhere to it completely, as the only reason for shifting in individual rulings would be vain desire (even if the muqallid does not realise it).

4. Shāfi‘ ibn ‘Abd al-Rashīd Abū ‘Abdillāh al-Jīlī (470 – 541 H) is referred to in the following passage of al-Zarkashī:
“If [a muqallid] adhered to a specific madhhab, like [the madhhab of] Mālik or al-Shāfi‘ī, and he believed in its superiority in general, is it permissible to oppose his Imām in some juristic rulings and select the opinion of another mujtahid besides him? In this are [the following] views: First, prohibition. Al-Jīlī positively asserted this in al-I‘jāz, because the view of every Imām is independent in individual cases, so there is no need to shift except following desires, and due to what is in it of following dispensations and playing with religion.”
There is a clear indication in this statement that the only reason the earlier generations did not restrict themselves to a single mujtahid is because there was a need: the rulings of each mujtahid on all juristic issues were not known, making it necessary to refer to multiple mujtahids. Al-Juwaynī was quoted earlier making the same point. Furthermore, the reason for restricting oneself to a single madhhab, i.e. the potential of following desires, is also alluded to in this statement. Although al-Jīlī does not say that a layperson must at the outset select a madhhab, but since his reasoning is that to have the option to select from multiple madhhabs bears the consequence of following desires and playing with the dīn, it would entail that his opinion is it is necessary for a layperson to choose one madhhab he will follow in all its rulings. Safī al-Dīn al-Hindī (644 – 715 H) said after mentioning this very reasoning:

“This evidence demands that it is necessary for the layperson to subscribe to a specific madhhab at the outset.”

Moreover, it is also clear from this passage that al-Jīlī saw no reason why a muqallid would shift from one madhhab to another – when there was no dire need as in the early period – besides following vain desire (tashahhī).

5. Al-Qaffāl al-Marwazī, Abū Bakr ‘Abdullāh ibn Ahmad’s (327 – 417 H) opinion is mentioned in the following passage from al-Nawawī’s Sharh al-Muhadhdhab:

“Shaykh [Abū Muhammad al-Juwaynī] said: It will be considered if he [i.e. the layperson] is ascribed to a madhhab, we will premise it on two views which al-Qādī Husayn related in that the layperson does he have a madhhab or not?...The second, and this is the most authentic according to al-Qaffāl, is that he does have a madhhab, so it is not permissible for him to oppose it.” (al-Majmū‘ Sharh al-Muhadhdhab, 1:93)

In explaining al-Qaffāl’s view, Ibn al-Salāh states:

“Because he believes that the madhhab which he is ascribed to is the truth and he gave it preference over other than it, so he must follow through with the demand of this belief of his. Hence, if he is a Shāfi‘ī he may not seek fatwa from a Hanafī, nor oppose his Imām.”

This proves that according to al-Qaffāl once a muqallid has selected a madhhab, he must adhere to it in all its rulings.

6. The “Ashāb al-Wujūh” were major early mujtahids in the Shāfi‘ī madhhab, generally having lived between the third and fifth centuries. Al-Nawawī describes them as follows: “A mujtahid restricted to the madhhab of his Imām, independent in establishing his viewpoints with evidence, although he does not go beyond the foundations of his Imām and his principles in his evidences. His condition is knowledge of jurisprudence and its principles and the detailed evidences of laws, and insight into the methodology of [drawing] legal analogies and [determining] the ratio legis. [He is] fully trained in extraction and derivation, capable of linking what is not explicitly mentioned by his Imām to his principles.” Al-Nawawī

then said: “This is a description of our Ashāb, the Ashāb al-Wujūh.” (Sharh al-Muhadhdhab, p. 76) Some examples of Ashāb al-Wujūh are: Abū ‘Alī al-Husayn ibn Sālih ibn Khayrān (d. 320 H), Abū Yahyā Zakariyyā ibn Ahmad al-Balkhī (d. 330 H), Zāhir ibn Ahmad al-Sarakhsī (d. 389 H) and Abū Bakr al-Awdanī (d. 385 H).

Al-Nawawī said:

“If [a layperson] is not ascribed [to a madhhab], it is premised on two views, which Ibn Barhān related from our Ashāb, in that: Is it necessary for the layperson to adopt a particular madhhab?... The second it is necessary for him. Abu l-Hasan al-Ilkiyā positively asserted it, and this applies to all who have not reached the level of ijtihād from the jurists and the adherents of all sciences. [This is so] in order that he does not collect the dispensations of the madhhabs; as distinguished from the first era when the madhhabs were not codified such that their dispensations may be collected. Based on this, it is necessary for one to strive to choose a specific madhhab he will follow in everything. He may not adopt a madhhab based merely on whim, nor with what he found his forefathers upon. This is the statement of the Ashāb.” (Rawdat al-Tālibīn, 8:101)

In explaining the view of the Ashāb, al-Nawawī clearly mentions that in the early period the laypeople were not able to seek out the easiest opinions of the mujtahids, precisely because their madhhabs were not codified.

In short, there is very strong support from within the early Shāfi‘ī school for the paradigm of taqlīd we have proposed in the introduction. Furthermore, Imām al-Ghazālī effectively quoted consensus on this ruling, and as mentioned earlier, the disagreement of later scholars cannot override the binding consensus of the earlier jurists.

Statements from the Early Scholars of the Mālikī School:

1. Shaykh al-Islām Qādī Abu l-Fadl ‘Iyād ibn Mūsā (476 – 544 H) said: “Know – may Allāh give us and you success – that the ruling of the one devoted to the orders of Allāh (Exalted is He) and His prohibitions, obedient to the Sharī‘ah of His Prophet (Allāh bless him and grant him peace), is to seek acquaintance of this and that with which he will render devotion [to Allāh] and that which he will perform and will omit, and [that which] is necessary for him and forbidden, and [that which] is permissible for him and encouraged, from the Book of Allāh and the Sunnah of His Prophet, for they are the two foundations which the Sharī‘ah is known only by means of and Allāh is rendered devotion only by knowledge of.

“Furthermore, the consensus of the Muslims is built upon them, and dependent on them. Thus it cannot be found nor convened, except [based] on them, either from a text which they knew and then did not transmit or from a deduction based on them – based on the view that a consensus via the route of ijtihād is valid.

“All of this will not be complete except after making knowledge of them, and the means and tools allowing him to reach it, a reality, in terms of transmission and reason, and pursuit of it, collection and retention, and knowledge of what is sound from the traditions and famous, and acquaintance of how to gain understanding, and that by which he will gain understanding, in terms of knowledge of the outward of the words, which is knowledge of Arabic and language, and knowledge of their meanings and the meanings of the intent of Sharī‘ah and its objectives, and the clear directive of speech, its outward and its purport and all its angles, which is termed “knowledge of the principles of jurisprudence”, most of which is connected to knowledge of Arabic and the objectives of speech and conversation, and then [knowledge of] the source of making a [legal] analogy of what has not been explicitly stated on what has been explicitly stat-

ed, drawing attention to the presence of the legal reason in it or its resemblance to it. "All of this requires time, while devotion [to Allāh and Sharī'ah] is necessary immediately. Moreover, those who have reached this road, which is the road of ijtihād and ruling by it in the Sharī'ah, are few and fewer than few after the first era and the righteous Salaf and the praiseworthy three generations.

"Since this is so, it is necessary for the one who has not reached this position from the legally responsibility individuals (muakkallafīn) to receive what he will render devotion with and which he was legally obligated with, in terms of the tasks of Sharī'ah, from those who transmit it to him, and make him aware of it, and [who] he depends on in his transmission, knowledge and assessment. This is taqlīd, and the rank of the common people, nay most of them [i.e. people], is this!

"Since this is so, it is necessary to make taqlīd of a scholar that is dependable upon in that, and when the scholars become abundant, then the most learned. "This is the share of the muqallid in terms of ijtihād (exercising judgement) for his religion. The muqallid will not abandon the most learned and go towards other than him, even if he [too] is engaged in knowledge. Thus, he will ask about that of which he does not have knowledge until he knows, just as Allāh (Exalted is He) said: 'Ask the people of knowledge if you do not know.' And the Prophet (Allāh bless him and grant him peace) ordered imitation of the caliphs after him and his companions, and indeed the Prophet (Allāh bless him and grant him peace) dispatched his companions amongst the people to teach them the understanding of religion, and teach them what is prescribed upon them, and Allāh (Exalted is He) encouraged all of them, that from each group a party of them go forth in order to gain understanding in the religion and warn their people when they return to them. (Qur'ān, 9:122)

“Since this matter is necessary and inevitable, and the most worthy and deserving of those who the ignorant layperson and the novice worshipper and the student seeking guidance and the one seeking understanding in the religion of Allāh make taqlīd of are the jurists of the companions of the Messenger of Allāh (Allāh bless him and grant him peace), who took knowledge from him and knew the reasons for the revelation of the commands and prohibitions, and the functions of the laws, and the contexts of his (upon him peace) speech, and they witnessed the indications of it, and they spoke directly in most of them with the Prophet (upon him peace), and they asked him about them, along with what they were upon of vast knowledge and acquaintance with the meanings of speech and illumination of hearts and expansion of breasts, so they were indisputably the most learned of the Imāms, and the worthiest of them to make taqlīd of, but they did not speak about the legal cases except in the small number [of them] that arose, nor were juristic rulings derived by them, and they did not speak about the Sharī‘ah except of principles and events, and most of their occupation was in acting on what they knew, and defence of the territory of religion, and consolidating the Sharī‘ah of the Muslims. Moreover, there is disagreement amongst them in some of what they spoke of, which will leave the muqallid in confusion, and will force him to contemplate and have reservation.

“Derivation [of subsidiary rulings], drawing results and elaborating the [points of] discussion in that which is expected to occur only came after them. Thus, the Tābi‘ūn came, and they analysed their disagreement and they built on their foundations, and then after them scholars arose from the successors of the Tābi‘ūn, and events became numerous, legal cases took place, and the fatwas on them became diverse, so they gathered the views of all [scholars], and they preserved their jurisprudence, and they researched their disagreement and their agreement, and they were cautious of the matter be-

coming dispersed and the disagreement going out of control, so they exercised their reasoning in collecting the traditions and regulating the principles, and they were asked and they answered, and they founded principles and paved foundations and derived legal rulings based on them, and they authored for the people works on this and arranged them into chapters, and each of them acted in accordance with what was inspired to him and he was granted accordance to [do], so the knowledge of principles and subsidiaries, disagreement and agreement, reached its peak with them, and they drew analogy on what reached them of what it indicates to or it resembles. May Allāh be pleased with them all and give them the full reward for their efforts.

“Thus, it is stipulated for the lay muqallid and the novice seeker of knowledge to refer in [his] taqlīd to these [mujtahids] for the texts of his legal cases, and refer to them in what is unclear [to him] therefrom, due to the encompassment of the science of Sharī‘ah and its revolving around them, and their excellence in analysing the madhhabs of those who came before them, and their sufficing of that for those who came after them.

“However, taqlīd of all of them will not be possible in most legal cases and the majority of rulings, due to their disagreement based on the different principles on which they built [the rulings]. And it is not correct for a muqallid to make taqlīd of whosoever he wishes from them based on whim and chance, or based on what he finds the people of his vicinity and his family upon.

“Thus, his share here of ijtihād is analysing the most learned of them, and gaining recognition of the worthiest of the totality of them for taqlīd, so that the layperson will incline in his deeds to his fatwas, and will rely in his acts of piety on what he opined...It is not permissible for him to trespass in consulting those whose madhhab he does

not adhere to for fatwa, since some of the elders said: ‘The Imām for the one who adopts his madhhab is like the Prophet (upon him peace) with his ummah – it is not permissible for him to oppose him.’ This is correct in terms of reasoning, and in what we elaborated, its soundness is manifest to the people of insight.

“...Once this introduction is established, we say: The consensus of the Muslims in all places of earth has occurred on taqlīd in this fashion, and adherence of them, and studying their madhhabs and not those before them, while acknowledging the excellence of those before them and their priority and their superior knowledge, but the problems [in following them] are as we described and the sufficiency of what they selected from them is as we mentioned earlier.

“...The people today in all the lands of the world have evolved into five madhhabs: Mālikīs, Hanafīs, Shāfi‘īs, Hanbalīs and Dāwūdīs – and they are known as Zāhirīs. Thus, it is incumbent on a student of knowledge and the one wishing to gain acquaintance of what is true and correct to recognise the most worthy of them of taqlīd, in order to depend on his madhhab and tread his path in seeking jurisprudential knowledge.” (59 – 67)

The important points to note from this lengthy passage of Qādī ‘Iyād are, firstly, that he notes most people in his time were muqallids; secondly, the reason it is not possible to follow the madhhab of a single Sahābī is that no Sahābī has a unified madhhab relating to all issues of jurisprudence; thirdly, and perhaps most importantly, Qādī ‘Iyād identifies the reason why it is necessary to adhere to one madhhab as the different principles of each madhhab on which they based their rulings – following all of them, therefore, will result in a contradiction in the outcome; finally, he relates consensus on this type of taqlīd i.e. the obligation of adhering to a single madhhab one believes to be superior to the others.

2. Imām al-Māziri, Abū ‘Abdillāh Muhammad ibn ‘Alī al-Tamīmī (453 – 536 H) said:

“When a question came to me from Tūnis – Allāh protect it – when a man who a long time ago had studied part of the science of Usūl under me had married a woman and divorced her thrice, and then considered her permissible [for him], after a man solemnised [the marriage] with her and did not have intercourse with her, so a question about him came to me from the judge and the jurists of the city, I reprimanded him excessively, and I went into excess, until he thought I gave them permission to punish him! I mentioned that this is a door, if opened, repercussions would occur in terms of religion and consequences in terms of adherence to the laws [of Sharī‘ah].

“...That which I believe of the resolute religion is that it is prohibited to exit the madhhab of Mālik and his companions as a protection against the path [towards the negative repercussions]. If this was legalised, a man would say: I will sell one dinar for two dinars due to what was narrated from Ibn ‘Abbās and then someone will come who will say: I marry a woman and I make her private part lawful without a guardian nor witnesses in imitation of Abū Hanīfah with respect to the guardian and of Mālik with respect to witnesses, and I will marry her for a meagre price in imitation of al-Shāfi‘ī. This is the greatest opportunity for disaster. This practice would be severed in the earlier times, despite the scrupulousness of its people and their fear of their honour and their religion. So what of when the matter has reached a time wherein its people have fallen short of the conditions of those who came before in such a way that is not hidden to the intelligent. This is a time when it is more suitable to cut off the substances of laxity in religious matters. ...You see our imams who would fear Allāh (Great and Glorious is He) exaggerate in condemning laxity in the matter of religion and leaving one madhhab for another madhhab, due to what it will lead to in terms of corruption.” (Fatāwa l-Māziri, al-Dār al-Tūnisiyyah, 151-3)

In this passage, al-Māzirī explains the importance of regulatory measures to keep laypeople in check from falling into unwanted consequences. Two such consequences he refers to in this passage are: adopting shadhdh opinions, such as Ibn ‘Abbās’s opinion of allowing the sale of one dirham for two dirhams on spot; and talfiq as in the example of the marriage that he described made up of the opinions of three different madhhabs.

Al-Māzirī also mentions in this passage that scholars had put these measures before his time also. There is in fact a reference to Mālikī scholars restricting the muftis to giving fatwa only on the madhhab of Imām Mālik as far back as the early third century. Wanshirīsī reports from al-Hārith ibn Miskīn (d. 250 H) and Sahnūn (d. 240 H) that they forbade the muftis of their areas from issuing fatwa on other than the madhhab of Mālik (al-Mi‘yār al-Mu‘rib, 12:26). And as mentioned earlier, quoting from Safī al-Dīn al-Hindī, “This evidence demands that it is necessary for the layperson to subscribe to a specific madhhab at the outset.”

Statements from the Hanbalī School:

1. Najm al-Dīn Ahmad ibn Hamdān ibn Shabīb al-Harrānī al-Misrī al-Faqīh (603 – 695 H) said:

“It is necessary for every muqallid to adhere to a specific madhhab in the most famous [view] and not make taqlīd of other than its adherents.” (al-Insāf, 11:194)

With the final clause, “and not make taqlīd of other than its adherents,” Ibn Hamdān clarifies that the obligation is to restrict oneself to the body of scholars represented by the madhhab, and not only the founder of the madhhab.

Ibn Hamdān also reproduces the statement of al-Nawawī quoting from the Ashāb in his famous work on the protocols of fatwa *Sifat al-Fatwā wa l-Muftī wa l-Mustaftī* (al-Maktab al-Islāmī, p 72)

“The Layperson has no Madhhab”?

The statement “the layman has no madhhab” (al-‘āmmī lā madhhaba lahū) was mentioned by some scholars . This rule applies only to the situation before the codification of madhhabs, as expressed by al-Juwaynī amongst others.

Nāsir al-Dīn Abu l-‘Abbās Ahmad ibn Muhammad Ibn al-Munayyir al-Mālikī (620 – 683 H) said:

“Proof dictates [the necessity of] adherence to a specific madhhab after [the codification of the madhhabs of] the four Imāms not before them. The difference is that the people before the four Imāms did not codify their madhhabs, nor did the legal cases arise in large numbers upon them, such that the madhhab of each of them may be known in all cases or in most of them. The one who asks fatwa of al-Shāfi‘ī, for example, had no knowledge of what the mufti will say because his madhhab was not well-known in that case, or it did not arise before that so it is inconceivable that [anyone] supported it besides the mind of a specific [mufti]. As for after the madhhabs were understood, codified and became famous, and the dispensation was known from the strictures in every case, then a questioner will not alternate – when the condition is such – from madhhab to madhhab except due to an inclination to break away [from responsibility] and seeking ease.”

In this very clear passage, Ibn al-Munayyir explains that before the codification of madhhabs there was little scope to seek out the easiest opinions of the scholars. However, after the codification of the madhhabs, it would be easy to find the easiest opinion on each issue.

Thus, at this time, restricting oneself to a single madhhab became necessary, as a regulatory measure. Hence, the rule, “The layperson has no madhhab” is applicable to the period before the codification of madhhabs. Stating this explicitly, Ibn Hajar al-Haytamī from the late Shāfi‘ī school said:

“The claim that the layperson has no madhhab is rejected. Rather, taqlīd of a recognised madhhab is necessary for him. That [i.e. the layperson having no madhhab] was before the codification of madhhabs and their settlement.”

The rule “the layperson has no madhhab” also applies to those situations, times and places where it would be very difficult or even impossible to obligate a layperson to adhere to a single madhhab, due to complete ignorance or lack of access to all the positions of one madhhab. Some of the later scholars have mentioned this. However, in normal circumstances, due to the reasons that have been explained, a layperson must adhere to a single madhhab in all its rulings.

Conclusion:

There are strong positions in all four madhhabs on the obligation to restrict oneself to a single madhhab. Major scholars from the fifth century of Hijrah quoted consensus on this ruling. The reasons for the ruling have been explained in detail above, and will be summarised below. The scholars who in the present time strictly uphold this view are, therefore, completely justified in doing so.

There were certainly a number of latter-day scholars that tended towards the view of unrestricted taqlīd. The primary reason for this is that some influential scholars supported this opinion after the earlier consensus in opposition to it. Examples include al-Nawawī, al-Qarāfi, Ibn al-Humām and Ibn Taymiyyah. However, as mentioned ear-

lier in the brief discussion on *tatabbu' al-rukhas*, the personal opinions of later scholars cannot supersede an earlier consensus, nor can they form the basis of the official position of the respective schools when the situation under question has remained unchanged.

Moreover, the scholars who give permission for unrestricted *taqlid* generally accept the consensus on the prohibitions of *tatabbu' al-rukhas*, following desires and *talfiq*. Since it is almost impossible to keep the common people from falling into these patterns, the scholars of the present time who support this view should, based on the principle of closing the avenues to impermissible ends (*sadd al-dharā'i'*), put effective measures to avoid these unwanted outcomes. This can only be achieved by limiting them to choose the opinions of a single *madhhab*.

Summary of Main Points:

- Before the codification of the *madhhabs*, in approximately the first three centuries of *Islām*, the common Muslim was permitted to accept the opinions of multiple *mujtahids*.
- The reason for this is that the common Muslim did not have access to a complete codified set of laws from any single person or school at this time, so it was not generally possible to follow a single *mujtahid* or school.
- Because different *madhhabs* with detailed rules on all chapters of jurisprudence were not yet codified or well-known, an opinion the common Muslim was exposed to was probably the only opinion on that issue he would know. Hence, he would rarely have the option to select between different viewpoints on single issues, making it nearly impossible for him to seek out the easiest opinions from amongst the available views of *mujtahid* scholars and follow his desires.

- After the codification of the madhhabs in approximately the fourth century of Hijrah, it became necessary for a common Muslim to restrict himself to a single madhhab which he believes to be more correct in relation to the other madhhabs
- The reasons for this is that:
 - o **Firstly**, each madhhab was comprehensive and complete, dealing with all the subsidiaries of Islāmic law, so unlike the early period, there was no need to refer to multiple mujtahids or madhhabs
 - o **Secondly**, if given the option to select from the different madhhabs in single issues, the common Muslim would be freed of religious obligation (taklif) and will be free to base his decisions on his whims and desires, by seeking out the easiest opinion from each school.
 - o **Thirdly**, if a layperson follows multiple madhhabs in different rulings, the consequence will be a hotchpotch of legal rulings, many of which are based on conflicting juristic principles, resulting in a methodological contradiction in the outcome, even if not obviously apparent
 - o **Fourthly**, a muqallid's reasoning is limited to investigating which madhhab or mujtahid he feels is superior, and he does not have the right or ability to adjudicate between them on individual issues; thus, if he were to choose from different madhhabs without necessity, it would be based on following desires, even if the muqallid does not realise it or believe so
 - o **Fifthly**, given this option, a muqallid may be led to select opinions outside of the established madhhabs that are shadhdh
 - o **Sixthly**, a muqallid may not be able to observe the conditions of the different madhhabs he is following in a single case, resulting in talfiq
- Major early scholars across all madhhabs before the sixth century of Hijrah have corroborated each of these points, with Qādi

‘Iyād and al-Ghazālī having quoted consensus on the obligation of adhering to a single madhhab

- The opinion of some later scholars in contravention to this, when the situation has remained the same since the consensus of the early scholars, is rejected
- Since there is no need to follow multiple madhhabs in this period, and there is a potential for major repercussions – prohibited by consensus – if it is permitted, it behooves all scholars to give the verdict of the obligation of restricting one’s taqlīd to a single madhhab, on the basis of prudence and practicality, and closing the avenues to unwanted ends
- When some early scholars spoke of a layperson “having choice” (which was stated even by some of those scholars who obligated restricted taqlīd) or “having no madhhab”, they refer to the times and scenarios where these are applicable, such as:
 - o If a muqallid has not yet selected a madhhab, or is in such a position that he does not have full access to any single madhhab, he may take fatwa from a scholar of any madhhab
 - o A muqallid of a particular madhhab in some situations has the choice of accepting different fatwa positions within his school
 - o The layperson in the era before the codification of madhhabs had no madhhab for the reasons outlined earlier.



Appendix

‘Allāmah Anwar Shāh Kashmīrī (1292 – 1352 H) said in Fayd al-Bārī: “It has not escaped you that Ibn Nujaym in Qadā’ al-Fawā’it and Ibn ‘Abidin in the introduction to Radd al-Muhtār gave allowance to a dangerous slip, since they allowed an uneducated person who does not know the madhhab of anyone to ask regarding his five Salāhs from whichever scholar from the scholars of the four madhhabs he wishes, and act on whatever he wishes from their fatwas.

“I say: “This is rejected (bātil), because its consequence is that the uneducated person has no madhhab. Analogy with the matter of iqtidā’ (following an imām in Salāh) is invalid, as there is no alternative to following in iqtidā’, as distinguished from acting on the madhhabs, because it is possible for him to restrict himself to a madhhab and follow it in [all] its rulings. As for practising the madhhab of al-Shāfi‘ī (Allāh have mercy on him) in one Salāh and the madhhab of the Hanafīs in another Salāh, this is an improper way, and leads to contradiction, and has no precedent in the religion.

“Its explanation is that the rulings of one madhhab are matching with each other. I mean that there is a sequence and connection between them in the mind of the mujtahid. Thus, if these rulings are mixed-up, so at one time one acts on this and at another time on this, it will lead to contradiction, even if it does not appear to the apparent mind, because they may be built on different principles which contradict one another. So if he acts on all those rulings, he will be entangled in a contradiction without realising it, because even if those rulings are not self-contradictory, the principles on which those rulings are based are contradictory, so the contradiction is not visible between those rulings to the apparent mind, although it is verifiable with deeper thought.” (Fayd al-Bārī, 1:459 ; also quoted by Shaykh ‘Abd al-Fattāh Abū Ghuddah in Tarājim Sittah min Fuqahā’ al-‘Ālam al-Islāmī, Maktab al-Matbū‘āt al-Islāmiyyah, p. 73)

Addenda

Islāmic Law vs. Secular Law

A common argument often produced against Islāmic law, particularly a reading of it in the manner described above, is that it is inherently a non-intellectual process that stagnated following the era of dynamic ijtihād in the first three or four centuries. Hence, it is argued, Islāmic law cannot be regarded as an asset to human civilisation and thinking, but as a formalistic – and rigid – code of laws that is unable to withstand challenges or undergo developments or adaptations to context and time. In contrast with this, it is claimed western secular law is an intellectual enterprise that may be manoeuvred through the myriad situations and specific legal cases it has to deal with in a rigorous, dynamic and fulfilling manner.

Is this argument, and this contrast between Islāmic and secular law, justified?

A close analysis of the history of Islāmic law reveals that, contrary to what is premised in this argument, taqlid is not a stage of intellectual stagnation. In fact, taqlid represents a higher and more developed stage of Islāmic legal thinking. The ijtihād that was a widespread activity in the first few centuries of Islām represents a great number of different ways of interpreting the original sources of Sharī'ah – that is, the Qur'ān, Sunnah, consensus, analogy and inherited practice of the earliest generations. It is because of the successes realised by the early mujtahids in this formative period that taqlid became the overriding legal paradigm following the third or fourth century. To introduce ijtihād at this later stage would be to “reinvent the wheel” so to speak. In secular terms, taqlid entails fitting new legal cases into existing “precedents”. These authoritative precedents that have their roots in the Islāmic legal texts were fully codified in law schools established in the early centuries by the famous mujtahids credited with having founded them.

Contrary to the suggestion in the abovementioned argument, taqlid does not mean intellectual stagnation or immutability and rigidity. Taqlid did not stop the process of legal thought. Taqlid, in fact, entailed integrating the vast set of legal rulings handed down from the early mujtahids into unified schools of law. Many processes are incorporated into this stage of development, including making further divisions to existing laws (tafrī'), delineating exceptions to them, finding the legal causes (‘ilal) that they are premised on and so on. On this basis, taqlid is not rigid and immutable. As it seeks to find the bases of legal rulings, this naturally entails that if there is any change to the underlying premises of any individual ruling, that would impact on the ruling itself. Based on this principle, taqlid is adaptable and malleable to context and time.

One of the most obvious indications that taqlid is not stagnant and formalistic is the hierarchy of Islāmic lawyers (tabaqāt al-fuqahā') as discussed in books of Islāmic legal theory, like Nawawī's introduction to Sharh al-Muhadhdhab and Ibn 'Ābidīn's Sharh 'Uqūd Rasm al-Muftī. The reason for the hierarchy – which remains till today – is precisely because not everyone is qualified to interpret the law, even as set in the Islāmic law schools (madhhabs). Only one who has gained an understanding of how a law school operates, and which rulings are immutable and which are context-specific, can he correctly issue a legal verdict. Underscoring this principle, Ibn 'Ābidīn emphatically states (merely two centuries ago):

جمود المفتي أو القاضي على ظاهر المنقول، مع ترك العرف والقرائن الواضحة، والجهل بأحوال الناس يلزم منه
تضييع حقوق كثيرة وظلم خلق كثير

“A jurisconsult's rigidity on the outward of what has been passed down [i.e. the legal precedents established by the early mujtahids], while simultaneously disregarding the context and obvious [external] indicators, and displaying ignorance of the situations of people,

entails squandering many rights and oppressing multitudes.” (Sharh ‘Uqūd Rasm al-Muftī, Maktab al-Bushrā, p. 81)

Much more can be said on this topic, and indeed much has been written on it already. One contemporary western historian of Islāmic law, Sherman Jackson, has published his thoughts on this positive outlook on taqlīd, which directly counters earlier orientalist criticism of the Islāmic legal tradition as stagnant and formalistic. See his: “Taqlīd: Legal Scaffolding and the Scope of Legal Injunctions in Post-Formative Theory” in the Journal of Islamic Law and Society, Vol. 3, No. 2.

Talfiq:

While a number of scholars have transmitted consensus on the invalidity of talfiq, one will be hard-pressed to find any clear delineation between what kinds of talfiq, if any, fall outside the scope of what has been regarded as unacceptable by consensus. However, from the examples that are offered and the reasoning that is presented, it is clear the talfiq in question is in regards to masā’il that are closely interlinked, like talfiq within the masā’il of wudū’ and salāh, or within the masā’il of marriage. If they come from different areas of practice, however, like talfiq between a mas’alah from salāh and another mas’alah from hajj, it would appear that the talfiq in question would not arise.

‘Allāmah Qāsim ibn Qutlūbughā (802 – 879 H) in his al-Tashīh wa l-Tarjīh quotes Taqī al-Dīn al-Subkī (683 – 756) as saying: “Taqlīd in something that is made up of two different ijtihāds is invalid by consensus.” Then ‘Allāmah Qāsim presents the example of a person who wiped a part of his head for wudū’, making taqlīd of Imām al-Shāfi‘ī, but then offered salāh with the impurity of a dog, making taqlīd of Imām Mālik. The result is an action that is invalid according to both schools. (al-Tashīh wa l-Tarjīh, Dār al-Kutub al-‘Ilmiyyah, p. 123). The example of talfiq here as elsewhere illustrates that talfiq

is restricted to issues that are closely interconnected. Muftī Muhammad Taqī ‘Uthmānī quotes ‘Allāmah Ashraf ‘Alī Thānawī stating this explicitly:

“Talfīq is not permissible in one action which violates consensus. But when it is two different actions, talfīq (mixing) is valid, even if it necessitates violation of consensus outwardly...” (al-Hilat al-Nājizah li l-Halilat al-‘Ājizah, p. 15; quoted in Usūl al-Iftā’ wa Ādābuhū, pp. 215-6)

It should be noted that although talfīq in two different nonrelated areas will not be regarded as invalid – hence, the actions will be deemed valid –, this does not mean that talfīq in this sense is permissible when there is no dire need (darūrah). On the contrary, since the obligation in this period is to adhere strictly to a single madhhab, and not shift on individual issues (as stated by major jurists belonging to all four madhhabs), to do so will be impermissible.

“Non-mujtahids” in this context refers to those who have not reached the level of “ijtihād” in all its forms, whether absolute ijtihād or restricted ijtihād, though they may be learned scholars. Tāj al-Dīn ‘Abd al-Wahhāb al-Subkī (727 – 771 H) said: “Taqlīd is to adopt a view without [detailed] knowledge of its evidence, and it is binding on the non-mujtahid.” (Jam‘ al-Jawāmi‘, Dār al-Kutub al-‘Ilmiyyah, p. 121) Al-Sayf Al-Āmidī (551 – 631 H) said: “It is binding on the layperson and the one who does not have the qualification of ijti-hād – even though he has acquired some sciences that are taken into consideration for ijtihād – to follow the view of the mujtahids and to accept their fatwas according to the verifiers from the Usūlis.” (Al-Ihkām fi Usūl al-Ahkām, Dār al-Samī‘ī, 4:278)

As explicitly stated by Qādī ‘Iyād in the passage from him quoted below.

Literally meaning “to join together”, *talfīq* is to make *taqlīd* of two or more *Imāms* in one issue in such a way that the resultant action is regarded as invalid by all the *Imāms* whose *taqlīd* was made.

‘Allāmah Qāsim ibn Qutlūbughā (d. 879 H) said: “The ruling produced from *talfīq* is invalid by the consensus of the Muslims.” (Al-Tashīh wa l-Tarjīh ‘alā Mukhtasar al-Qudūrī, Dār al-Kutub al-‘Ilmiyyah, pp. 122-3)

Marginal and fringe opinions which were rejected and condemned by the overwhelming majority of ‘*ulamā*’. Examples include the permissibility of *mut’ah* marriage, the permissibility of selling one silver coin for two on spot and the permissibility of musical instruments.

It is reported from *Imām al-Awzā’ī* (d. 157 H) that he said: “The one who selects the rareties of the ‘*ulamā*’ exits *Islām*.” (Usūl al-Iftā’ wa Adābuh, Makataba Ma’ārif al-Qur’ān, p. 206)

The scholars of *Usūl* discuss a particular situation known as ‘*adam al qawl bi ‘l-fasl*’ (the nonexistence of an opinion of distinction). If there are two issues, ‘A’ and ‘B’, and a group of scholars took opinion ‘X’ in both A and B and a second group took opinion ‘Y’ in both A and B, but there is no scholar who held the opinion of X in one and Y in the other, this is known as “*adam al qawl bi ‘l-fasl*”. Now, would it be permissible for a later scholar to adopt an opinion which makes a “distinction” between the two, i.e. opinion X in one and opinion Y in the other? The answer given by the author of *Usūl al-Shāshī* is that if the ruling given on B by both groups is based on the same principle on which their opinions on A was based, then it is not permissible, as to do so would be to adopt two contradictory principles. (Usūl al-Shāshī, Dār al-Gharb al-Islāmī, pp. 213-4)

Imām Ahmad al-Wanshirīsī al-Mālikī (d. 914 H) said: “What is understood from the force of the speech of these imāms – may the pleasure of Allāh be upon them – is that that which is prohibited is seeking out the easiest opinions of all the madhhabs, not a single madhhab. The verification is that there is no [apparent] distinction, but that which they made the reason for the prohibition, in that it will lead to relinquishing [religious] responsibility in every issue that is differed upon, only becomes completely apparent in the first [i.e. seeking out the easiest opinions of all the madhhabs] not the second [i.e. seeking out the easiest opinions within a madhhab]; because a matter is often prohibited in one madhhab by agreement and permissible in another by agreement or disagreement, so if we permitted seeking out dispensations from [all] the madhhabs it will lead to what they said, because what the madhhabs [all] agree upon is few. Seeking out the easiest opinions of one madhhab is not so, as it has fewer negative repercussions than the first.” (Al-Mi‘yār al-Mu‘rib, 12:32)

Ibn al-Munayyir al-Mālikī of the seventh century mentioned this point. See his quote below under the section, “The Layperson has no Madhhab”?

It is mentioned in *Sahīh al-Bukhārī*, for example, that the people of Madīnah would follow exclusively the verdicts of Zayd ibn Thābit.

“Mujtahid imāms” refer to both “mujtahids in the madhhab” (mujtahid fi l-madhhab) who are capable of deriving new rulings based on the principles and precedents from the madhhab, and “mujtahids of fatwa” (mujtahid fi l-futyā) who have the ability to assess the stronger opinions of the madhhab.

Allāmah Ibn ‘Abidīn proves this principle of the madhhab in his *Sharh ‘Uqūd Rasm al-Muftī* (Maktabat al-Buhsrā, pp. 52-3), quoting from al-Hāwī al-Qudsī and Fatāwā QādīKhān.

Kafawī said, “The leadership of the Hanafis culminated at him.” (al-Fawā'id al-Bahiyyah, Dār al-Ma'rifah, p. 164-6)

الحق لو كان حقوقاً لساغ للمقلد تقليد هذا المحتشد مرة وتقليد الآخر مرة، فكان هذا بناء الدين على الهوى، وهذا قبيح...ومن قال الحق واحد أزم العامي أن يتبع إماماً واحداً وقع عنده بدليل النظر أنه أعلم، ولا يخالفه في شيء بهوى نفسه (تقويم أصول الفقه، دار النعمان للعلوم، ج ٢، ص ٨٦٨)

He was described as one of the senior 'Irāqī jurists and authors of Wāqī'āt and Nawāzil (al-Fawā'id al-Bahiyyah, p. 36)

وقال أبو العباس الناطفي: هذا إذا كان المستفتي على مذهب أهل العراق أفتى عالم بقول أبي حنيفة رحمه الله وأفتى عالم بأفتى يوسف وأفتى عالم بقول محمد أو بقول زفر، فليس له أن يأخذ بقول الشافعي ولا بقول مالك (معين الحكام فيما يتردد بين الخصمين من الأحكام للطرابلسي، دار الفكر، ص ٧٢)

Al-Kafawī said: “He was amongst the mujtahids of his era.” (Fawā'id Bahiyya, p. 263) He was a student of Imām Burhān al-Dīn Mar-ghīnānī, the author of al-Hidāyah, and is the author of Jāmi' Ahkām al-Sighār amongst other works.

وجاز للرجل والمرأة أن ينتقل من مذهب الشافعي إلى مذهب الحنفي وكذا على العكس ولكن بالكيفية، أما في مسألة واحدة فلا يمكن، حتى لو خرج دم من حنفي المذهب وسال لا يجوز له أن يصلي قبل أن يتوضأ اقتداءً بمذهب الشافعي في هذه المسألة فإن صلى قبل أن يتوضأ يصفح، وقال بعضهم: ليس للعامي أن يتحول من مذهب إلى مذهب حنفياً كان أو شافعياً، وقال بعضهم: من انتقل إلى مذهب الشافعي رحمه الله ليؤوجه ولي البكر البالغة بغير رضاها يخاف عليه أن يسلب إيمانه وقت موته لإهانته بالدين لجيفة قدرة (كتاب الكراهة للأسروشنى، مخطوط، ص ١/٩)

He was mufti of Sijistān, a learned Imām with extensive knowledge of both fundamentals and peripherals (al-Fawā'id al-Bahiyyah, p. 201)

العباد مأمورون بالعمل بدلائل الشرع...أما في حق عامة المسلمين فلا يكون في وسع كل أحد أن يرجح الدلائل ويحتشد لكن ينبغي أن يرجح إماماً يرى ويكون متبعاً له، فإذا تأمل ورجح إماماً على إمام ورأى أن طريقه الحق والصواب بطل عنده قول الباقي، فلا يجوز العمل بمذهبهم كالمجتهد إذا صح عنده دليل لا يعمل بالباقي، وإمّا كان كذلك لأن الناس كلهم مأمورون بالعمل بأمر الله، غير أن العلماء مأمورون بالدلائل والنظائر وترجيح أحد الدلائل والعوام مأمورون بترجيح العلماء إذ ليس في وسعهم غير ذلك، ليكون الكل ممثليين لأمر الله تعالى (جواهر الفتاوى، مخطوط، ص ٧١٣/ب-١/٨١٣)

قال فخر الدين لما سئل عن التعصب في المذهب، قال: الصلاة في المذهب واجب والتعصب لا يجوز، والصلاة أن يعمل بما هو مذهبه ويراه حقاً وصواباً والتعصب السفاهة والجفاء في صاحب المذهب الآخر وما يرجح إلى نقصه ولا يجوز ذلك فإن أئمة المسلمين كانوا في طلب الحق وهم على الصواب (جواهر الفتاوى، ص ٩٠٣/ب)

He studied fiqh under Abū Ja'far al-Astrūshanī, and was one of the brilliant Hanafi scholars from Transoxiana. (al-Fawā'id al-Bahiyyah, p. 109)

ومن جعل الحق حقوقاً أثبت الخيار للعامي بهوى نفسه. ومن قال الحق في واحد أزم العامي أن يتبع إماماً واحداً وقع عنده بدليل النظر أنه أعلم ولا يخالفه في شيء بهوى نفسه (تقويم الأدلة، دار الكتب العلمية، ص ١٠٤)

عامي حنفي المذهب اقتصد ولم يعد الطهارة اقتداءً بالشافعي في حق هذا الحكم لا يسوغ له ذلك (القنية للزاهدي، مخطوط، ص ١/٣٩)

Author of al-Hidāyah, an Imām, hāfiz of hadith and exegete, with innumerable virtues. He was an unmatched authority in the Hanafi madhhab. He studied under Najm al-Dīn ‘Umar al-Nasafi, al-Sadr al-Shahīd and others. (al-Fawā'id al-Bahiyyah, p. 141)

رجل علق الطلاق بالتزوج ثم تزوج امرأة فاستفتى من شفعوي المذهب فأفتى على مذهبه أن لا يقع الطلاق لا يكون حجة في حقه (مختارات النوازل، مخطوط، ص. ٦٣/ب)

وَالْعَالِيَةُ أَنَّ مَثَلَ هَذِهِ الزَّامَاتِ مِنْهُمْ لِكُلِّ النَّاسِ عَنْ تَتَبُعِ الرَّحْمَنِ وَإِلَّا أَخَذَ الْعَامِيُّ فِي كُلِّ مَسْأَلَةٍ يَقُولُ مَجْتَهِدٌ قَوْلَهُ أَحَقُّ عَلَيْهِ (فتح القدير، دار الكتب العلمية، ج. ٨، ص. ٩٣٢)

قال سليمان التيمي: لو أخذت برخصة كل عالم اجتمع فيك الشر كله؛ قال ابن عبد البر معقبا: هذا إجماع لا أعلم فيه خلافاً (زجر السفهاء عن تتبع رخص الفقهاء، دار البشائر الإسلامية، ص. ٥٠)

ابن حزم وأبو عمر قد حكيا الإجماع ومستنده النقل، وعز الدين لم يبين مستندا فيحتمل أن يكون رأيا رآه فتفرد به، أو لازم قول وهو الظاهر من قوة كلامه، وأيا ما كان فهو إحداث قول بعد تقدم الإجماع فيكون باطلا تضمنه تخطئة الأمة، وتخطئتها ممنوع على ما تقرر في أصول الفقه (المعيار المغرب، ج. ٢١، ص. ١٣)

He was the shaykh of the Shāfi'is in his time. Abu Sa'd al-Sam'ānī said: "Abu l-Ma'ālī was the absolute imām of imāms, with consensus in the east and the west on his imāmah. Eyes have not seen the like of him." (Siyar A'lām al-Nubalā', Mu'assat al-Risālah, 18:469)

فإن قيل: فهل يجوز للعامي أن ينتحل في بعض المسائل مذهب الشافعي وفي بعضها مذهب أبي حنيفة، وكذا مذهب عامة الأمة على هذا المنهاج؟ فإن قلتم: يجوز ذلك فلا يجب على أحد اتباع صاحب مذهب بعينه فلا حاجة حينئذ إلى وضع هذا الكتاب لأنه لا أرب له إلى معرفة الأحق واتباع الحق والصدق، بل يفعل ما يشاء على مذهب من يهواه ويتمناه.

فالجواب: قلنا: لا يجوز للعامي ما قلتموه، بل يجب عليه حتما أن يعين مذهبا من هذه المذاهب إما مذهب الشافعي رضي الله عنه في جميع الوقائع والفروع، وإما مذهب مالك أو مذهب أبي حنيفة أو غيرهم رضوان الله عليهم، وليس له أن ينتحل مذهب الشافعي في بعض ما يهواه ومذهب أبي حنيفة في باقي ما يرضاه، لأننا لو جوزناه لأدى ذلك إلى الخبط والخروج عن الضبط، وحاصله يرجع إلى نفي التكاليف ولا يستقر للتكليف عليه فائدة، إذ إن مذهب الشافعي إذا اقتضى تحريم شيء بعينه أو على عكسه فهو إن شاء ما إلى الحل وإن شاء مال إلى الحرمة فلا يتحقق الحل ولا التحريم، وفي هذا انعدام التكليف وإبطال فائدته واستئصال قاعدته وذلك باطل.

فإن قيل: ليس في عهد الصحابة كان الواحد من الناس مخيرا بين أن يأخذ في بعض الوقائع بمذهب الصديق وفي البعض بمذهب الفاروق، وكذا في حق عامة الصحابة في كافة الوقائع ولم يمنعه عن ذلك؟ فإذا جازت هذه فيما بين الصحابة، فلم لا يجوز في زماننا؟

والجواب: قلنا: إما ذلك كان كذلك لأن أصول الصحابة لم تكن كافية لعامة الوقائع شاملة لكافة المسائل مستغرقة لجميع التفاريع، مستوفية تلك التفاصيل، لأنهم أسسوا الأساس، وأصلوا الأصول، ومهدوا القواعد، ولم يتفرغوا إلى تفرع التفاريع، وتفصيل التفاصيل، فمذهب أبي بكر رضي الله عنه لم تكن كافية لجميع الوقائع، وكذلك مذهب عامة الصحابة فلاجل الضرورة أبحث للمقلدين متابعة الصديق في بعض الوقائع، وفيما لم يجد على أصله متابعة الفاروق، وأما في زماننا هذا مذهب الأمة كافية مستغقة للكل، فإنه ما من واقعة تقع إلا وتجددها في مذهب الشافعي أو في مذهب غيره إما نصا وإما تخريجا، فلا ضرورة إلى اتباع الإمامين جميعا، فلا يجوز له أن ينقض تقليده إذ لا يستقر للتكليف فائدة (مغيث الخلق، المطبعة المصرية، ص. ٣١-٦١)

He was the shaykh of the Shāfi'is, a teacher of the Nizāmiyyah and one of the prime students of Imām al-Juwaynī. (Tabaqāt al-Shāfi'iyyah al-Kubrā, 7:231)

وإن لم يكن منتسبا بني على وجهين حكاهما ابن برهان في أن العامي: هل يلزمه أن يتمذهب بمذهب معين، يأخذ برخصه وعزاه...؟ والثاني: يلزمه وبه قطع أبو

الحسن إلِكيا، وهو جار في كل من لم يبلغ رتبة الاجتهاد من الفقهاء وأصحاب سائر العلوم، ووجهه أنه لو جاز اتباع أي مذهب شاء لأفضى إلى أن يلتقط رخص المذاهب متبعا هواء، ويتخير بين التحليل والتحرير والوجوب والجواز وذلك يؤدي إلى انحلال ريقة التكليف بخلاف العصر الأول، فإنه لم تكن المذاهب الوافية بأحكام الحوادث مهذبة وعرفت، فعلى هذا يلزم أن يجتهد في اختيار مذهب يقلده على التعيين، ونحن نعهد له طريقا يسلكه في اجتهداه سهلا، فنقول: أولا ليس له أن يتبع في ذلك مجرد التشهي والهيل إلى ما وجد عليه أباه، وليس له التمهيد بمذهب أحد من أئمة الصحابة رضي الله عنهم وغيرهم من الأولين، وإن كانوا أعلم وأعلى درجة ممن بعدهم، لأنهم لم يتفرغوا لتدوين العلم وضبط أصوله وفروعه، فليس لأحد منهم مذهب مذهب محرر مقرر، وإنما قام بذلك من جاء بعدهم من الأئمة الناحلين لمذاهب الصابة والتابعين القاهمين بتمهيد أحكام الوقائع قبل وقوعها، الناهضين بإيضاح أصولها وفروعها، كمالك وأبي حنيفة وأبي حنيفة (المجموع شرح المذهب، مكتبة الإرشاد، ج. ١، ص. ٣٩)

He was the leading student of al-Juwaynī and a major authority in fiqh, usūl and other sciences, famed throughout the Muslim world in both scholarly and non-scholarly circles.

الشرط الرابع أن يكون كونه منكرا معلوما بغير اجتهد، فكل ما هي في محل الاجتهاد فلا حصة فيه، فليس للحنفي أن ينكر على الشافعي أكل الضب والضيع ومترك التسمية، ولا للشافعي أن ينكر على الحنفي شربة النبيذ الذي ليس بمسكر وتناوله ميراث ذوى الأرحام وجلسه في دار أخذهما بشفاعة الجوار إلى غير ذلك من مجاري الاجتهاد. نعم لو رأى الشافعي شافعيًا يشرب النبيذ وينكح بلا ولي ويوطأ زوجته فهذا في محل النظر، والأظهر أنه له الحصة والانتكار إذ لم يذهب أحد من المحصلين إلى أن المجتهد يجوز له أن يعمل بموجب اجتهد غيره ولا أن الذي أدى اجتهداه في التقليد إلى شخص رآه أفضل العلماء أن له أن يأخذ بمذهب غيره فينتقي من المذاهب أطيبها عنده، بل على كل مقلد اتباع مقلده في كل تفصيل فإذا مخالفته للمقلد متفق على كونه منكرا نين المحصلين وهو عاص بالمخالفة (أحياء علوم الدين، كريباه نوترا، ج. ٢، ص. ١٢٣)

ورأي من يرى أنه يجوز لكل مقلد أن يختار من المذاهب ما أراد غير معتد به ولعله لا يصح ذهاب ذاهب إليه أصلا، فهذا مذهب لا يثبت وإن ثبت لا يعتد به (أحياء علوم الدين، ج. ٢، ص. ٢٢٣)

لا يجوز للمقلد العالم اختيار أطيب المذاهب عنده وأوفقها لطبعه، وعليه تقليد إمامه الذي اعتقد صحة مذهبه وصوابه على غيره، ويتبعه في كل ما ورد وصدر، فلا يجوز عدول المالكي لمذهب الشافعي إلا أن يغلب على ظنه أنه أصوب رأيا فحينئذ يجب تقليده في جميع المسائل، فإن لم يكن ذلك فلا داعي له في المخالفة إلا الهوى، كما لا يجوز لمجتهد مخالفة ما أنتجه اجتهداه، وكذا المقلد لمن قلده. ولا فرق إلا طلب المقلد أفضل الآفة، والمجتهد أفضل الرأيين، ويجب على كل مسلم اتباع ما يغلب على ظنه أنه الحق في المتعبدات. وحال المقلد يحصل بتصويب ما عليه إمامه الذي غلب على ظنه صحة قوله، كما يحصل معرفة أفضل الأطباء في البلدان من كان جاهلا به، وهذا إما بالسماع من الأقواء، أو مشاهدة الأكثرين إلى شخص معين، أو سماعه من شخصين أو شخص ظنه واطمأنه قلبه إليه، كما يسمع من أبويه فضل مالك والشافعي، فيصدق به ويطن إليه قلبه، فلا تجوز مخالفة ظنه، ولو قال ظني في غير هذه النازلة خطأ من قلده فليس هذا من حق المقلدين، واجتهداه في أعيان المسائل خطأ وكأنه في ظنه عرف من غير هذه المسألة ما لا يعرفه مقلده، فهو جهل. وأما اتباع الشافعي في مسألة خالف فيها صحابيا فيجب أن يظن بالشافعي أنه لم يخالفه إلا لدليل أقوى من مذهب الصحابي، وهو لم يظن هذا لنسب الشافعي إلى الجهل بمقام الصحابي، وهو محال. وهذا سبب ترجيح مذهب المتأخرين على المتقدمين، مع العلم بفضل علمهم عليهم، لكون المتقدمين سمعوا الأحاديث أحاداً، وتفرقوا في البلاد، فاختلفت فتاويهم وأقضيتهم في البلاد، وربما بلغتهم الأحاديث ووقفوا عما أقفوا به أو حكموا، ولم يتفرغوا في العصر الأول لجمع الأحاديث؛ لاشتغالهم بالجهاد وتمهيد الدين، فلما انتهى الناس إلى تابعي التابعين وجدوا الإسلام مستقرًا مهيأ، فصرفوا مهمهم إلى جمع الأحاديث من أقصى البلاد وأقطارها، بالرحلة والأسفار فالتأخرون نظروا بعد الإحاطة بجميع موارد الأحكام، ولم يخالفوا ما أفتي به أولًا، إلا لدليل بلغهم أقوى منه (المعيار المعرب، ج. ١١، ص. ٤٦١-٥)

A senior Shāfi‘ī scholar who studied under both Ilkiyā al-Harrāsī and al-Ghazālī.

فلو التزم مذهبا معينا كمالك والشافعي واعتقد رجحانه من حيث الإجمال، فهل يجوز أن يخالف إمامه في بعض المسائل ويأخذ بقول غيره من مجتهدي آخر؟ فيه مذاهب: أمدها المنع وبه جزم الجيلي في الإعجاز، لأن قول كل إمام مستقل بأحد الوقائع، فلا ضرورة إلى الإنتقال إلا التشهي، ولما فيه من اتباع الترخص والتلاعب بالدين. (البحر المحيط، دار الصفوة، ج. ٦، ص. ٥٢٣)

وهذا الدليل يقتضي أن يجب على العامي أن يتنحل مذهبا معينا ابتداء (نهاية الوصول، المكتبة التجارية، ص. ٢٩٣)

He was the greatest Shāfi‘ī jurist of his time. (Siyar A'lām al-Nubalā', 17:406)

قال الشيخ: ينظر: إن كان منتسبا إلى مذهب بنيناه على وجهين حكاها القاضي حسين في أن العامي هل له مذهب أم لا؟...والثاني وهو الأصح عند القفال: له مذهب فلا يجوز مخالفته (المجموع شرح المهذب، ج ٣، ص ٣٩)

لأنه اعتقد أن المذهب الذي انتسب إليه هو الحق ورجه على غير فعلية الوفاء بموجب اعتقاده ذلك، فإن كان شافعيًا لم يكن له أن يستفتي حنفيًا ولا يخالف إمامه (أدب المفتي والمستفتي، دار المعرفة، ص ٧٨)

وهل يجوز للعامي أن يتخير ويقلد أي مذهب شاء نظر إن كان منتسبًا إلى مذهب بني على وجهين حكاها القاضي حسين في أن العامي هل له مذهب أم لا أحدهما لا لأن المذهب لعارف الأدلة فعلى هذا له أن يستفتي من شاء وأصحهما عند القفال له مذهب فلا يجوز مخالفته وإن لم يكن منتسبًا بني على وجهين حكاها ابن برهان بفتح الباء من أصحابنا في أن العامي هل يلزمه التقيد بمذهب معين أحدهما لا فعلى هذا هل له أن يقلد من شاء أم يبحث عن أسد المذاهب فيقلد أهله وجهان كالبحث عن الأعلام والثاني وبه قطع أبو الحسن إلينا يلزمه وهو جار في كل من يبلغ رتبة الاجتهاد من الفقهاء وأصحاب سائر العلوم فلا يتلخص رخص المذاهب بخلاف العصر الأول ولم تكن مذاهب مدونة فيتلقط رخصها فعلى هذا يلزمه أن يختار مذهبًا يقلده في كل شيء وليس له التمهيد بمجرد التشبه ولا بما وجد عليه أبده هذا كلام الأصحاب والذي يقتضيه الدليل أنه لا يلزمه التمهيد بمذهب بل يستفتي من شاء أو من اتفق لكن من غير تلقت للرخص ولعل من منعه لم يبق بعد تلطف (روضة الطالبين، دار عالم الكتب، ج ١، ص ١٠١)

One of the leading scholars of his time, author of the renowned and indispensable work, al-Shifā', commentator of Sahīh Muslim, and, like al-Ghazālī, in need of no introduction.

اعلموا وفقنا لله تعالى وإياكم أن حكم المتعبد بأوامر الله تعالى ونواهيه المتشريع بشريعة نبيه عليه السلام طلب معرفة ذلك وما يتعبد به، وما يأتيه ويذره، ويجب عليه ويحرم، ويباح له ويرغب فيه من كتاب الله تعالى وسنة نبيه عليه السلام، فهما الأصلان اللذان لا تعرف الشريعة إلا من قبلهما ولا يعدل الله تعالى إلا بعلمهما ثم إجماع المسلمين مرتب عليهما ومسند إليهما فلا يصح أن يوجد وينعقد إلا عنهما، إما من نص عرفوه ثم تركوا نقله، ومن اجتهد مبني عليهما على القول بصحة الإجماع من طريق الاجتهاد، وهذا كله لا يتم إلا بعد تحقيق العلم بذلك الطريق والآلات الموصلة إليه من نقل ونظر وطلب قبله وجمع وحفظ وعلم وما صح من السنن واشتهر، ومعرفة كيف ينتظم وما به ينتظم من علم ظواهر الأنفاظ وهو علم العربية واللغة وعلم معانيها وعلم موارد الشرع ومقاصده ونص الكلام وظاهره وفحواه وسائر نواحيه وهو المعبر عنه بعلم أصول الفقه وأكثره يتعلق بعلم العربية ومقاصد الكلام والخطاب، ثم يأخذ قياس ما لم ينص عليه على ما نص بالتبيين على علته أو شبيهه له. وهذا كله يحتاج إلى مهلة والتعبد لازم لحينه، ثم إن الواصل إلى هذا الطريق وهو طريق الاجتهاد والحكم به في الشرع قليل وأقل من القليل بعد الصدر الأول والسلف الصالح والقرون المحمودة الثلاثة وإذا كان هذا فلا بد لمن لم يبلغ هذه المنزلة من المكلفين أن يتلقى ما تعبد به وكلف به من وظائف شريعة ممن ينقله له ويعرفه به، ويثبت عليه في نقله وعلمه وحكمه وهو التقليد ودرجة عوام الناس بل أكثرهم هذا، وإذا كان هذا فالواجب تقليد العالم لمؤتق بذلك، فإذا كثّر العلماء فالأعلم وهذا حظ المقلد من الاجتهاد لدينه ولا يترك المقلد الأعمل ويعدل إلى غيره وإن كان يشغل بالعلم فيسأل حينئذ عما لا يعلم حتى يعلمه. قال الله تعالى: (فاسألوه أهل الذكر إن كنتم لا تعلمون) وأمر النبي صلى الله عليه وسلم بالإقتداء بالخلفاء بعده وأصحابه، وقد بعث النبي صلى الله عليه وسلم أصحابه في الناس ليقفهوهم في الدين، ولينذروا قومهم إذا رجعوا إليهم وإذا كان هذا الأمر لازماً لا بد منه فكان أولى من قلده العامي الجاهل (والمبتدئ) والمتعبد (والطالب المسترشد والمتفقه في دين الله تعالى وأحق بذلك فقهاء أصحاب رسول الله صلى الله عليه وسلم الذين أخذوا عنه العلم وعلموا أسباب نزول الأوامر والنواهي ووظائف الشرائع ومخارج كلامه عليه السلام. وشاهدوا قرائن ذلك واثقوا في أكثرها النبي عليه السلام واستفسروا عنها مع ما كانوا عليه من سعة العلم ومعرفة معاني الكلام وتنوير القلوب وانشراح الصدور، فكانوا أعلم الأمة ما مربة وأولاهم بالتقليد لكتهم لم يتكلموا من النوازل إلا في اليسير مما وقع، ولا تفرغت عنهم المسائل ولا تكلموا من الشرع إلا في قواعد ووقائع، وكان أكثر اشتغالهم بالعمل مما علموا والذب عن حوزة الدين وتوكيد شريعة المسلمين ثم بينهم من الاختلاف في بعض ما تكلموا فيه ما يبقى المقلد في حيرة ويحوجه إلى نظر وتوقف، وإما جاءه التفرع والتنبيح وبسط الكلام فيما يتوقع وقوعه بعدهم، فجاء التابعون فنظروا في اختلافهم وبنوا على أصولهم ثم جاء من بعدهم العلماء من أتباع التابعين، والوقائع قد كثرت والنوازل قد حدثت، والفتاوى في ذلك قد تشعبت فجمعوا أقاويل الجميع وحفظوا فقهم وبحثوا عن اختلافهم واتفاقهم وحذروا انتشار الأمر وخروج الخلاف عن الضبط فاجتهدوا في جمع السنن وضبط الأصول وسألو فأجابوا وبنوا القواعد ومهدوا الأصول وفرعوا عليها النوازل ووضعوا في ذلك للناس التصنيف وبوبوها، وعمل كل واحد منهم بحسب ما فتح عليه ووفق له، فانتهى إليهم علم الأصول والفروع والاختلاف والاتفاق وقاسوا على ما بلغهم ما يدل عليه وشبهه، رضي الله عن جميعهم ووفاهم أجر اجتهداهم فالتفتين على المقلد العامي وطالب العلم المبتدئ أن يرجع في التقليد هؤلاء لنصوص نوازل الرجوع فيها أشكل من ذلك إليهم، واستغرق علم الشريعة ودورها عليهم وأحكامهم النظر في مذاهب من تقدمهم وكما بينهم ذلك لمن جاء بعدهم، لكن تقليد جميعهم لا يتفق في أكثر النوازل وجمهور المسائل لاختلافهم باختلاف الأصول التي بنوا عليها ولا يصلح أن، يقلد المقلد من شاء منهم على الشهوة والبحث أو على ما وجه عليه أهل فطره وألّه، فحفظه هنا من الاجتهاد النظر في أعلمهم ويعرف الأولى بالتقليد من جملتهم حتى يركن العامي في أعماله إلى فتواه ويجتهد في تعبداته على ما رآه وينصب العامي الأعمل من ملتزمي مذاهب هؤلاء منصبه، ولا يحل له أن يعدو في استفتاءه أن يرى مذهبه، فقد قال بعض المشايخ: إن الإمام لمن التزم تقليد مذهبه كالنبي عليه السلام مع أمته، ولا يحل له مخالفته. وهذا صحيح في الاعتبار بما بسطناه وشرطناه يظهر صوابه لأولي البصائر والأبصار وكذلك يلزم هذا طالب العلم في بدايته في درس ما أصله الأعمل من هؤلاء وفرعه وحفظ ما ألّفه وجمعه والاهتداء بنظره في ذلك والميل حيث مال معه إذا لو ابتدأ الطالب في كل مسألة فطلب الوقاف على الحق منها بطريق الاجتهاد عسر عليه ذلك إذ لا يتفق له إلا بعد جمع خصاله وتناهي كماله، وإذا كان بهذا السبيل استغنى عن تقليد أرباب المذاهب وكان من المجتهدين لنفسه فسيبيله أن يقلد من يعرفه أن، هذا هو الحق، حتى إذا أدرك من العلم ما قبض له وحصل منه ما قسم الله تعالى له وأفلح وكان فيه عمل للنظر والاجتهاد انتقل إلى ذلك وأدركه، فإذا تقررت هذه المقدمة فنقول: قد وقع إجماع المسلمين في أقطار الأرض على تقليد هذا

النظم واتباعهم ودرس مذهبهم دون من قبلهم ومع الاعتراف بفضل من قبلهم وسبقه ومزيد علمه، لكن اللعل التي ذكرنا وكفاية ما نلوه وانتقوه من ذلك كما قدمنا...وصار الناس اليوم في أقطار الدنيا إلى خمسة مذاهب: مالكية وحنفية وشافعية وحنبلية ودأودية وهم المعروفون بالظاهرية، فحق على طالب العلم ومريد تعرف الصواب والحق أن يعرف أولاهم بالتقليد ليعتمد على مذهبه ويسلك في التفقه سبيله (ترتب المدارك وتقريب السالك لمشرفة أعلام مذهب مالك، المملكة المغربية، ص. ٩٥-٧٦)

A major Mālikī Imām, commentator of Sahīh Muslim, and a teacher of Qādī 'Iyād. He was a leading Hanbalī authority in his time, his most senior teacher being 'Abd al-Qādir al-Ruhāwī (536 – 612 H). Ibn Rajab al-Hanbalī said: “Knowledge of the [Hanbalī] madhhab, its subtleties and its obscurities, reached its peak in him.” (al-Dhayl 'alā Tabaqāt al-Hanābilah, Maktabah al-'Abikān, 4:267)

وقال في الرعاية الكبرى: يلزم كل مقلد أن يلتزم بمذهب معين في الأشهر، فلا يقلد غير أهله (الإنصاف، ج. ١١، ص. ٤٩١)

وحكي الرافي عن أبي الفتح الهروي أحد أصحاب الإمام [الشافعي] أن مذهب عامة أصحابنا أن العامي لا مذهب له (البحر المحيط، ج. ٦، ص. ٢٠٣)

One of the outstanding Egyptian scholars, about whom 'Izz al-Dīn ibn 'Abd al-Salām said: “The Egyptian lands boasts of two men on its borders: Ibn al-Munayyir in Alexandria and Ibn Daqīq al-‘Īd in al-Qaws.” (Editor’s introduction to al-Taysīr al-‘Ajīb fī Tafsīr al-Gharīb, Dār al-Gharb al-Islāmī, p. 17)

وتوسط ابن المنير فقال: الدليل يقتضي التزام مذهب معين بعد الأئمة الأربعة لا قبلهم، والفرق أن الناس كانوا قبل الأئمة الأربعة لم يدونوا مذهبهم ولا كثرت الوقائع عليهم، حتى عرف مذهب كل واحد منهم في كل الوقائع وفي أكثرها، وكان الذي يستفتى الشافعي مثلاً لا علم له بما يقوله المفتي، لأنه لم يشتهر مذهبه في تلك الواقعة، أو لأنها ما وقعت له قبل ذلك، فلا يتصور أن يعضده إلا سر خاص، وأما بعد أن فهمت المذاهب ودونت واشتهرت وعرف المرخص من المشدد في كل واقعة، فلا ينتقل المستفتي والحالة هذه من مذهب إلى مذهب إلا ركونا إلى الانحلال والاستسهال (البحر المحيط، ج. ٦، ص. ٩١٣-٩٠٢) وزعم أن العامي لا مذهب له ممنوع بل يلزمه تقليد مذهب معتبر، وذلك إما كان قبل تدوين المذاهب واستقرارها (تحفة المحتاج بشرح المنهاج، دار الكتب العلمية، ج. ١، ص. ٧٨٤)

قال عن العلامة أبي بكر بن أبي قاسم الأهدل: وما أفتى به من أن العامي لا مذهب له معين تكاد أن تتعين الفتوى به في حق العوام في هذه الأزمنة، وإن كان عن المتأخرين المصحح من أنه يجب عليه التزام مذهب معين، لكن من خبر حال العوام في هذا الزمان، سيما أهل البوادي منهم، جزم بأن تكليفهم التزام مذهب معين قريب من المستحيل (مختصر الفوائد المكية، دار البشائر الإسلامية، ص. ٨٤) ثم لا يذهب عليك أن ابن نجيم في باب قضاء الفوائت، وإبن عابدين في مقدمة «رد المحتار» وسعاً سهواً مُضراً، حيث وسَّها للأئمة الذي لا يعلم مذهب أحدهم أن يستفتي في صلواته الخمس أي عام من علماء المذاهب الأربعة شاء، ويعمل بما شاء من فتاواهم. أقول: وهذا باطل، فإنَّ حاصله: أن الأئمة ليس له مذهب والقياس على مسألة الاقتداء فاسد، فإن الاقتداء لا مناص فيه عن المتابعة، بخلاف العمل بالمذاهب فإن له أن يتقيد بمذهب ويتابعه في مسائله. أما العمل بمذهب الشافعي رحمه الله تعالى في صلاة، ومذهب الحنفية في صلاة أخرى، فمسلك غير مستقيم، والتزام للتناقض، ولا نظير له في الدين. وتحققة: أنَّ المسائل من مذهب واحد تكون مُتَّبَعَةً، أعني به أنه تكون بينها سلسلة وارتباط في ذهن المجتهد، فإذا خلط في هذه المسائل، فيعمل تارة بهذا وأخرى بهذا، يلزم التناقض، وإن لم يتَّبع في بادي الرأي، لأنها ربما اتبعت على أصول مختلفة يخالف أحدهما الآخر، فإذا عمل بتلك المسائل كلها ابتلي بالتناقض من حيث لا يدري، فإن تلك المسائل وإن لم تكن متناقضة إلا أن الأصول التي تنفرع عليها تلك المسائل تكون متناقضة، فلا بلوغ للتناقض بين تلك المسائل في بادي الرأي

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CONTEMPORARY FATAWA

Volume 2

The proof of the perfection of the religion of Islam is its practical implementation in every time and era. Allah Ta'ala chose the illustrious Fuqaha (-Jurists) to analyze contemporary issues in the light of the Quran, Ahadith and Juridical principles and guide the Ummah to practice on the Shari'ah. Thus the practical implementation of Islam remained alive until today.

In this era of scientific calculations and technological advancements, we are also faced with similar challenges like the Fuqaha of the past in addressing contemporary issues. This compilation of Contemporary Fatawa Volume 2 is a branch of that same tree of our illustrious Fuqaha. Some topics addressed in this compilation are Nationalism in Islam, Different forms of Surrogacy, National Anthem in Islamic Schools, Nikah via Skype, Mobile Towers in the Masjid, IT related issues and much more.

